

# AUDIT AND STANDARDS COMMITTEE

Thursday, 26th January, 2023  
6.30 pm





# AUDIT AND STANDARDS COMMITTEE

## ROOMS 2 & 3, TOWN HALL

Thursday, 26th January, 2023 at 6.30  
pm

Members are reminded that if they have detailed questions on individual reports, they are advised to contact the report authors in advance of the meeting.

Members of the public may ask a question, make a statement, or present a petition relating to any agenda item or any matter falling within the remit of the committee.

Notice in writing of the subject matter must be given to the Head of Legal & Democracy by 5.00pm on the day before the meeting. Forms can be obtained for this purpose from the reception desk at Burnley Town Hall or the Contact Centre, Parker Lane, Burnley. Forms are also available on the Council's website <https://bit.ly/2BWX7d2>

Whilst we have returned to holding meetings in person we have limited space for members of the public to attend due to Public Health guidance. Should you wish to attend you are advised to contact [democracy@burnley.gov.uk](mailto:democracy@burnley.gov.uk) in advance of the meeting.

## **AGENDA**

### **1) Apologies**

To receive any apologies for absence.

### **2) Minutes**

To approve as a correct record the minutes of the previous meeting, held on 16<sup>th</sup> November 2022.

5 - 8

### **3) Additional Items of Business**

To determine whether there are any additional items of business which, by reason of special circumstances, the Chair decides should be considered as a matter of urgency.

### **4) Declarations of Interest**

To receive any declarations of interest from Members relating to any item on the agenda, in accordance with the provisions of the Code of Conduct.

### **5) Exclusion of the Public**

To determine during which items, if any, the public are to be excluded

from the meeting.

## **6) Public Question Time**

To consider questions, statements or petitions from Members of the Public.

## **PUBLIC ITEMS**

<b>7) External Audit Progress Report 2021/22</b>	9 - 20
<b>8) Arrangements for 2022/2023 Annual Governance Statement</b>	21 - 34
<b>9) Internal Audit Progress Report 2022/2023 Quarter 2</b>	35 - 44
<b>10) Fraud Risk Assessment 2022/2023</b>	45 - 52
<b>11) CIPFA Audit Committee Guidance</b>	53 - 56
<b>12) Code of Conduct Review</b>	57 - 72
<b>13) Local Government (Disqualification) Act 2022 Changes to Disqualification Criteria for Councillors</b>	73 - 86
<b>14) Member Complaints Statistics 2022/2023 Municipal Year - Interim Report</b>	87 - 88
To receive an update on complaints about Members of the Council.	
<b>15) Work Programme</b>	89 - 90
To consider the Work Programme for the current year.	

## **PRIVATE ITEMS**

## **MEMBERSHIP OF COMMITTEE**

### **Councillors**

Councillor Lord Wajid Khan of Burnley  
(Chair)  
Councillor Charlie Briggs  
Councillor Alan Hosker  
Councillor Shah Hussain  
Councillor Karen Ingham

Councillor Alun Lewis  
Councillor Gordon Lishman (Vice-Chair)  
Councillor Mark Townsend  
Councillor Andy Wight

### **Co-opted Members**

Councillor Kathryn Haworth, Habergham Eaves Parish Council  
Vacancy, Parish Council representative  
David Swift, Independent Member  
Stuart Arnfield, independent Member

### **External Auditor**

Helen Stevenson, Grant Thornton-External Auditor  
Georgia Jones, Grant Thornton-External Auditors

Published: Wednesday, 18 January 2023





## AUDIT AND STANDARDS COMMITTEE

BURNLEY TOWN HALL

Wednesday, 16th November, 2022 at 6.30 pm

### PRESENT

### MEMBERS

Councillor Howard Baker, In the Chair.

Councillors S Hussain, K Ingham, A Lewis, G Lishman and M Townsend

### OFFICERS

Howard Hamilton-Smith	–	Head of Finance and Property
Amy Johnson	–	Finance Manager
Carol Eddleston	–	Democracy Officer
CJ Walmsley	–	Democracy Officer

### CO-OPTED MEMBERS

David Swift

### EXTERNAL AUDITORS

Georgia Jones – Grant Thornton-External Auditors

#### 16. Apologies

Apologies for absence were received from Councillors Lord W Khan and Briggs, and S Arnfield.

#### 17. Minutes

RESOLVED – That the minutes of the last meeting held on 22<sup>nd</sup> September 2022 be approved as a correct record and signed by the Chair.

#### 18. Additional Items of Business

There were no additional items of business.

#### 19. Declarations of Interest

There were no declarations of interest in any items on the agenda.

## **20. Exclusion of the Public**

There were no items of business where members of the public needed to be excluded from the meeting.

## **21. Public Question Time**

No questions, statements or petitions had been received from members of the public.

## **22. Approval of Audited Accounts 2021/22**

Howard Hamilton-Smith introduced the report, which presented the Council's audited Statement of Accounts for 2021/22 and sought formal approval of the Committee and sign off by the Chair. Approval and sign off was also sought for the Letter of Representation from the Head of Finance and Property to Grant Thornton (external auditors).

The Committee was informed of the audits findings and requested to approve the signed 2021/22 Annual Governance Statement.

Georgia Jones gave an overview of the audit findings report and highlighted the following key points: -

- An asset (Charter Walk Shopping Centre) included as an Investment Property, should have been classed as Other Land and Buildings. This reclassification resulted in additional depreciation charged through the Council's Comprehensive Income and Expenditure Statement.
- Assurance was still awaited from the pension fund auditor on underpinning controls and supporting data for the pension fund net liability. Once this has been received the audit opinion would be issued.

Concerns were raised over whether the reclassification of Charter Walk would have a detrimental effect on the business case, but assurance was given that it would have no effect on business plans.

Three recommendations were outlined which had been identified for the Council as a result of the audit of financial statements and progress would be reported during the course of the 2022/23 audit. An update on actions taken to address the previous year's recommendations was also provided.

It was queried if the Council had the necessary arrangements in place to deliver Value for Money. It was anticipated that a Value for Money review will be concluded by February 2023 and the findings be reported back to the committee.

**RESOLVED** - (1) That the Statement of Accounts be approved and signed;  
(2) that the Letter of Representation be approved and signed;  
(3) that the audit findings be noted; and

(4) that the signed Annual Governance Statement 2022 be approved.

### **23. Work Programme**

Members noted the changes to the work programme.

It was proposed that the Value for Money 21/22 report be submitted to the January 2023 meeting of the Committee and the External Audit Plan 22/23 be submitted to the meeting in March 2023.

It was suggested that the approval of audited accounts be retained as a separate single item for consideration by the Audit and Standards Committee in the future.

**RESOLVED** – That the work programme be noted and amended for the Value for Money 21/22 report to be considered in January 2023, and the External Audit Plan 2022/23 to be considered in March 2023.

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# Burnley Borough Council Audit Progress Report and Sector Update

Year ending 31 March 2022

January 2023  
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Agenda Item 7

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The contents of this report relate only to the matters which have come to our attention, which we believe need to be reported to you as part of our audit planning process. It is not a comprehensive record of all the relevant matters, which may be subject to change, and in particular we cannot be held responsible to you for reporting all of the risks which may affect the Authority or all weaknesses in your internal controls. This report has been prepared solely for your benefit and should not be quoted in whole or in part without our prior written consent. We do not accept any responsibility for any loss occasioned to any third party acting, or refraining from acting on the basis of the content of this report, as this report was not prepared for, nor intended for, any other purpose.

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# Introduction

## Your key Grant Thornton team members are:

### Georgia Jones

Key Audit Partner

T 0161 214 6383

E georgia.s.jones@uk.gt.com

### Helen Stevenson

Audit Manager

T 07880 456209

E helen.l.stevenson@uk.gt.com

### Muhammad Afzal

Audit In-charge

T 0161 214 3690

E muhammad.t.afzal@uk.gt.com

This paper provides the Audit and Standards Committee with a report on progress in delivering our responsibilities as your external auditors.

The paper also includes:

- a summary of emerging national issues and developments that may be relevant to you as a local authority; and
- includes a number of challenge questions in respect of these emerging issues which the Committee may wish to consider (these are a tool to use, if helpful, rather than formal questions requiring responses for audit purposes)

Members of the Audit and Standards Committee can find further useful material on our website, where we have a section dedicated to our work in the public sector. Here you can download copies of our publications <https://www.grantthornton.co.uk/en/services/public-sector-services/>

If you would like further information on any items in this briefing, or would like to register with Grant Thornton to receive regular email updates on issues that are of interest to you, please contact either your Engagement Lead or Engagement Manager.

# Progress at January 2023

## Financial Statements Audit

We reported the findings from our audit in our Audit Findings Report in November 2022, and issued an unqualified opinion on 29 November before the deadline of 30th.

The Accounts and Audit (Amendment) Regulations 2022 (SI 2022 No. 708) came into force on 22 July 2022 extending the deadline for publishing audited local authority accounts for 2021/22 to 30 November 2022. From 2023/24 the audit deadline changes to 30 September for years up to 2027/28.

## Accounting for infrastructure

The Code of Practice on Local Authority Accounting in the United Kingdom 2021/22 requires infrastructure to be reported in the Balance Sheet at historic cost less accumulated depreciation and impairment and that where there is 'enhancement' to the assets, that the replaced components are derecognised. Where authorities are not fully compliant with these requirements, there may be a risk of material misstatement.

Many authorities do not possess the records to be able to fully comply with the requirements. Following extensive consultation and discussions with interested parties DLUHC issued a Statutory Instrument (SI) in 2022 simplifying accounting for infrastructure assets until the 2024/25 financial year. The CIPFA Code of Practice on Local Authority Accounting is expected to introduce longer term financial reporting requirements in this area.

Note Burnley Borough Council does not hold any Infrastructure Assets and therefore the impact of the SI did not delay the issue of the 2021/22 audit opinion on the financial statements.

## Value for Money

The new Code of Audit Practice (the "Code") came into force on 1 April 2020 for audit years 2020/21 and onwards. The most significant change under the new Code was the introduction of an Auditor's Annual Report, containing a commentary on arrangements to secure value for money and any associated recommendations, if required.

The new approach is more complex, more involved and is planned to make more impact.

Under the 2020 Code of Audit Practice, for relevant authorities other than local NHS bodies auditors are required to issue our Auditor's Annual Report no later than 30 September or, where this is not possible, issue an audit letter setting out the reasons for delay.

As a result of the ongoing pandemic, and the impact it has had on both preparers and auditors of accounts to complete their work as quickly as would normally be expected, the National Audit Office has updated its guidance to auditors to allow us to postpone completion of our work on arrangements to secure value for money and focus our resources firstly on the delivery of our opinions on the financial statements. This is intended to help ensure as many as possible could be issued in line with national timetables and legislation. The extended deadline for the issue of the Auditor's Annual Report is now no more than three months after the date of the opinion on the financial statements. We anticipate issuing our Auditor's Annual Report to management in February 2023, inline with the extended deadline.

# Progress at January 2023 (cont.)

## Other areas

### Certification of claims and returns

We certify the Authority's annual Housing Benefit Subsidy claim in accordance with procedures agreed with the Department for Work and Pensions (DWP). The certification work for the 2021/22 claim began in December 2022 and is currently in progress. DWP extended the deadline for reporting the findings of this work to 31 January 2023.

### Meetings

We hold ongoing meetings with key officers during the year and recently met with Finance Officers to discuss emerging developments as part of our value for money work and to ensure the audit process is smooth and effective. We also met with your Chief Executive in January to talk over the Authority's strategic priorities and plans.

### Events

We provide a range of workshops, along with network events for members and publications to support the Authority. Your officers have been invited to our upcoming Accounts Workshops in February 2023, where we will cover financial reporting requirements for local authority accounts and give an insight into elements of the audit approach.

Further details of the publications that may be of interest to the Authority are set out in our Sector Update section of this report.

# Audit Deliverables

## 2021/22 Deliverables

### Audit Plan

We are required to issue a detailed audit plan to the Audit and Standards Committee setting out our proposed approach in order to give an opinion on the Authority's 2021/22 financial statements and to report on the Authority's value for money arrangements in the Auditor's Annual Report

**Planned Date**

July 2022

**Status**

Completed

### Interim Audit Findings

We will report to you the findings from our interim audit and our initial value for money risk assessment within our Progress Report.

July 2022

Completed

### Audit Findings Report

The Audit Findings Report will be reported to the November Audit and Standards Committee.

November 2022

Completed

### Auditors Report

This includes the opinion on your financial statements.

November 2022

Completed

### Auditor's Annual Report

This report communicates the key outputs of the audit, including our commentary on the Authority's value for money arrangements.

February 2023

Not yet due

## 2021/22 Audit-related Deliverables

### Housing Benefit Subsidy – certification

This is the report we submit to Department of Work and Pensions based upon the mandated agreed upon procedures we are required to perform.

**Planned Date**

January 2023

**Status**

Delayed

# Sector Update

Authorities continue to try to achieve greater efficiency in the delivery of public services, whilst facing the challenges to address rising demand, ongoing budget pressures and social inequality.

Our sector update provides you with an up to date summary of emerging national issues and developments to support you. We cover areas which may have an impact on your organisation, the wider local government sector and the public sector as a whole. Links are provided to the detailed report/briefing to allow you to delve further and find out more.

Our public sector team at Grant Thornton also undertake research on service and technical issues. We will bring you the latest research publications in this update. We also include areas of potential interest to start conversations within the organisation and with audit committee members, as well as any accounting and regulatory updates.

- [Grant Thornton Publications](#)
- [Insights from local government sector specialists](#)
- [Reports of interest](#)
- [Accounting and regulatory updates](#)

More information can be found on our dedicated public sector and local government sections on the Grant Thornton website by clicking on the logos below:

Public Sector

Local  
government

# Audit Market Developments

## Financial Reporting Council Report On The Quality Of Local Audit

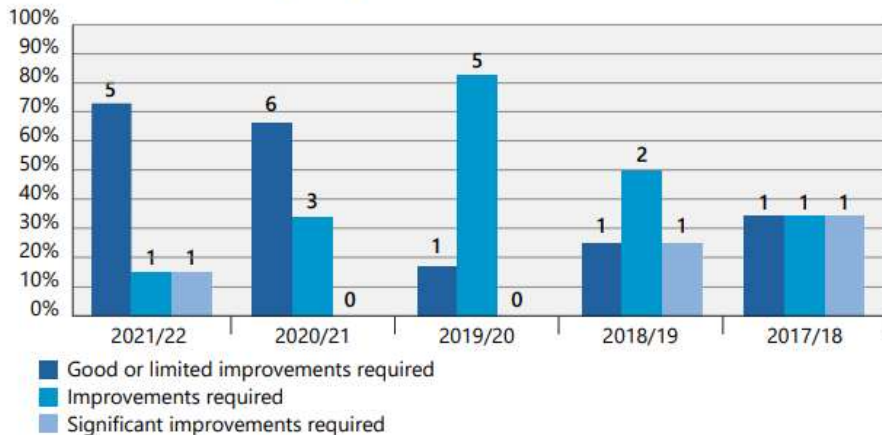
In late October 2022 the Financial Reporting Council (FRC) published its inspection findings into the quality of major local body audits in England, which includes large health and local government bodies.

The Quality Assurance Department (QAD) of the Institute of Chartered Accountants in England and Wales (ICAEW) inspects a sample of local audits that do not meet the definition of a ‘major’ local audit and the FRC’s report also includes a summary of their findings.

The FRC reported that 71% of Grant Thornton audits inspected (7 in total) were assessed as either good or limited improvements required.

This is a pleasing result and reflects on our significant investment in audit quality over recent years. The positive direction of travel over the past five years is illustrated below:

Our assessment of the quality of financial statement audits reviewed



The FRC also inspected our work on VfM arrangements at four bodies.

It is pleasing to note that all of these inspections were assessed as requiring no more than limited improvements (which is the same as the previous year).

As far as the ICAEW are concerned, overall, the audit work reviewed was found to be of a good standard.

Seven of the eight files reviewed (88%) were either ‘good’ or ‘generally acceptable’, but one file ‘required improvement’.

The ICAEW identified one of our files as requiring ‘Improvement’ – but it should be noted that this was a 2019-20 file and therefore the learnings from prior years’ review could not have been taken into account, an issue recognised by the ICAEW in their report to us.

The ICAEW found that our VfM work was good on each of the files reviewed, and they did not identify any issues with this aspect of the audit teams’ work.

Whilst are pleased with our continuing improvement journey, we continue to invest in audit quality to ensure that the required standards are met.

The full report can be found [here](#).



Financial Reporting Council





# Audit Market Developments (continued)

## Local Government External Audit Procurement

Public Sector Audit Appointments Ltd (PSAA) has recently announced the outcome of its national procurement of audit services across the Local Government sector.

This exercise covers the audits from 2023/24 to 2027/28 and covers the 470 local government, police and fire bodies (99% of eligible local bodies) that opted into the national scheme.

We are delighted to have been reappointed as the largest supplier of local government audit. The public sector has played a significant role within the firm for over 30 years and we remain committed to the success of the sector.

Our UK Public Sector Assurance (PSA) team employs 440 people, including 29 Key Audit Partners and specialists in financial reporting, audit quality, and value for money.

The team is dedicated to public audit work in local government and the NHS, with contracts with PSAA, Audit Scotland and over 100 health bodies. The Public Sector Assurance team is a regular commentator on issues facing the sector and oversees the firm's thought leadership, such as its series of publications on grants and public interest reports.

Mark Stocks, lead Partner for PSA at Grant Thornton, said 'This is a very welcome outcome and reflects our previous delivery as well as our ongoing commitment to invest in the public sector.'

Further information can be found [here](#)



# Grant Thornton – Nearly 60 councils at risk of ‘running out of money’ next year

Grant Thornton has warned that the soaring cost of living combined with a decade of austerity could see up to a sixth of English councils fully deplete their reserves in 2023-24 without substantial spending cuts.

Research found that, as a result of higher inflation, councils are expected to have a cumulative budget deficit of £7.3bn by 2025-26 – an increase of £4.6bn since forecasts made at the beginning of this year.

Grant Thornton said that although reserves were bolstered by more than £5bn in 2020-21 due to higher government funding, these balances will “continue to unwind through the long tail of Covid-19” with close to 60 councils forecast to use all earmarked and unallocated reserves next year.

Without additional income, authorities would need to make savings of over £125 per person by 2025-26, equal to the average yearly spend on homelessness, sports and leisure, parks and open spaces, libraries and waste services.

Phillip Woolley, Head of Public Services Consulting at Grant Thornton, said: “Local government has faced unprecedented demands and pressures over the last decade and without action from both central government and councils, in the face of these inflationary pressures, the list of authorities in need of exceptional support looks set to grow quickly.

“Our research shows the additional Covid-19 funding, while critical to support immediate challenges, has not addressed underlying systemic issues or the precariousness of councils’ financial sustainability in the face of economic instability.

“Local authorities are also now facing the risk of interest rate rises, increasing debt financing costs and the real risk of reduced funding from central government, in response to the current economic turmoil facing the country. Without committed intervention from all sides, there is a risk that the sector levels down instead of up.”

Grant Thornton estimated unitary authorities would have the largest budget gap (£1.8bn) by 2025-26, but district councils would have the largest gap compared to net spending at 10.2%.

The firm added that austerity and changing policy demands have left councils struggling to innovate in their services and prevented investment in finance and procurement, diminishing the sector’s ability to tackle medium-term challenges.

Grant Thornton said additional government funding alone will not lead to improvements, and that councils should focus on improving governance and developing financial stability plans.

Joanne Pitt, local government policy manager at CIPFA, said: “With no spending review and no fair funding review, CIPFA shares Grant Thornton’s concerns about the financial sustainability of some in the sector.

“While there are actions local authorities can take to strengthen their own financial resilience, they are facing significant inflationary pressures and rising demand which makes this hugely challenging for the sector.”



# Audit Committees: Practical Guidance For Local Authorities And Police – CIPFA

In October CIPFA published this guide, stating “This fully revised and updated edition takes into account recent legislative changes and professional developments and supports the 2022 CIPFA Position Statement. It includes additional guidance and resources to support audit committee members, and those working with and supporting the committee’s development.”

CIPFA go on to state “Audit committees are a key component of governance. Their purpose is to provide an independent and high-level focus on the adequacy of governance, risk and control arrangements. They play an important role in supporting leadership teams, elected representatives, police and crime commissioners and chief constables.

This edition updates CIPFA’s 2018 publication to complement the 2022 edition of the CIPFA Position Statement on audit committees.

The suite of publications has separate guidance resources for audit committee members in authorities, members of police audit committees, and a supplement for those responsible for guiding the committee.

New aspects include legislation changes in Wales and new expectations in England following the Redmond Review. All authorities and police bodies are encouraged to use the publication to review and develop their arrangements in accordance with the Position Statement.

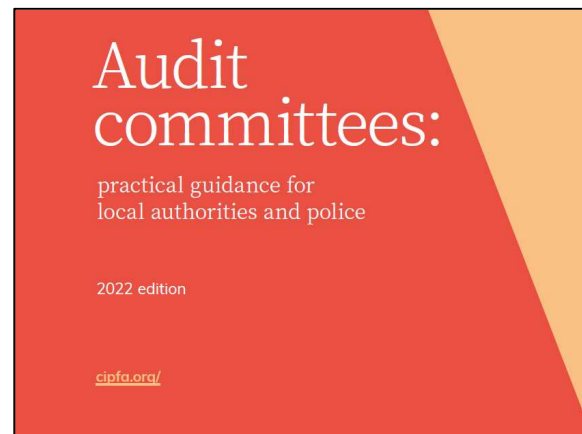
The appendices include suggested terms of reference, a knowledge and skills framework and effectiveness improvement tools.”

The guide covers a number of key areas for Audit Committees, including:

- Purpose
- Core functions:
  - Governance, Risk and Control
  - Accountability and Public Reporting
  - Assurance and Audit arrangements
  - Ensuring focus
- Independence and accountability
- Membership and effectiveness

The guide can be purchased via the CIPFA website:

[Audit Committee Guidance: 2022 update | CIPFA](#)





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## Arrangements For 2022/23 Annual Governance Statement

### REPORT TO AUDIT AND STANDARDS COMMITTEE



<b>DATE</b>	<b>26 January 2023</b>
<b>PORTFOLIO</b>	<b>Resources and Performance Management</b>
<b>REPORT AUTHOR</b>	<b>Ian Evenett</b>
<b>TEL NO</b>	<b>Ext 7175</b>
<b>EMAIL</b>	<b>ievenett@burnley.gov.uk</b>

#### PURPOSE

1. To inform the Audit and Standards Committee of the arrangements to provide assurance for an Annual Governance Statement for the financial year 2022/23.

#### RECOMMENDATION

2. That the Audit and Standards Committee approves the proposed process.

#### REASONS FOR RECOMMENDATION

3. The Audit and Standards Committee are required to approve the Annual Governance Statement.

#### SUMMARY OF KEY POINTS

4. There is a requirement under the Accounts and Audit Regulations 2015 that as part of the annual accounts process the Council is required to review both its internal control and wider governance arrangements. It must also publish an Annual Governance Statement (AGS) to accompany the Councils Statement of Accounts.
5. Planning for the production of the 2022/23 AGS has now commenced. This will be in line with CIPFA (Chartered Institute for Public Finance and Accountancy) and SOLACE (Society of Local Authority Chief Executives) guidelines. The 2022/23 AGS incorporates the core principles, introduced in the 2016/17 AGS, into the body of the statement.
6. The assurance gathering process remains the same and is shown in Appendix 1. Heads of Service and specific Members of the Council will be asked to complete a statement of assurance supported by a governance questionnaire (example questionnaires are provided at Appendix 2 reflecting the seven core principles) which will be passed onto Management Team. The Chief Executive and Leader will consider Management Team and Member statements before agreeing the Annual Governance Statement for the authority. The main change in the questionnaire relates to the removal of questions around the Covid-19 pandemic.
7. Similarly, Liberata will also be requested to provide an assurance statement for those

services that they provide to the Council.

8. The 2022-23 AGS will then be reported alongside the Statement of Accounts.

**FINANCIAL IMPLICATIONS AND BUDGET PROVISION**

9. None

**POLICY IMPLICATIONS**

10. None

**DETAILS OF CONSULTATION**

11. None

**BACKGROUND PAPERS**

12. None

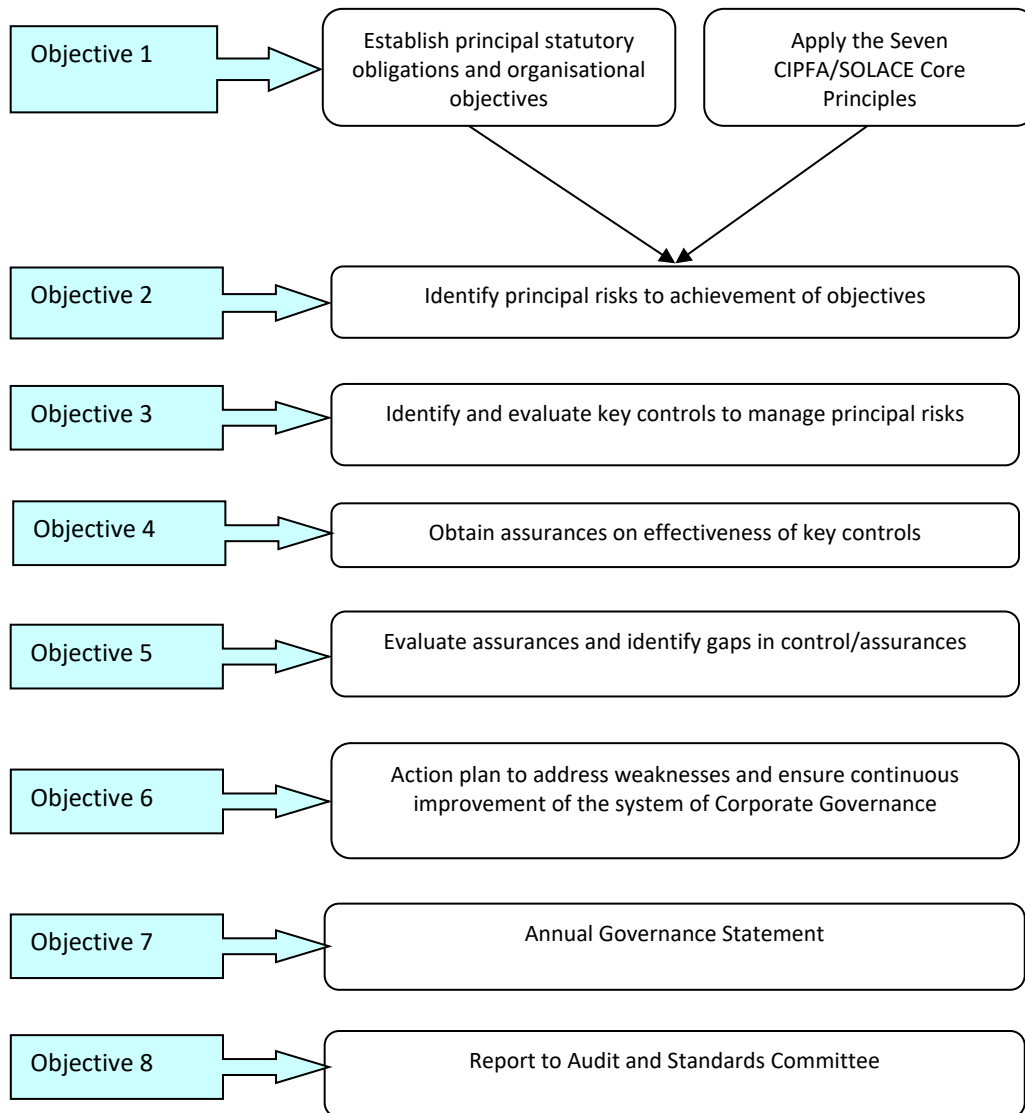
**FURTHER INFORMATION**

**PLEASE CONTACT:**

**Ian Evenett (Internal Audit Manager) Ext 7175**

**ALSO:**

*Appendix 1: Annual Governance Statement and the Assurance Gathering Process*



From: CIPFA Finance Advisory Network - The Annual Governance Statement – Rough Guide for Practitioners 2007

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<b>Annual Governance Statement</b>				
<b>Member Self-Assessment Questionnaire 2022/23</b>				
<b>1. Balancing Rules and Trust</b>				
<b>Supporting the genuine motivation of people whilst continuing to ensure that those who do breach the rules are discouraged.</b>				
<b>Do you consider that:-</b>	<b>Yes</b>	<b>No</b>	<b>N/A</b>	<b>Comments</b>
	✓	✓	✓	
1. Members are aware of the Members Code of Conduct and have agreed to abide by it.				
2. The Council's Standards Committee (now Audit and Standards Committee) has been in operation and used appropriately.				
3. Members/Officers have not used Council resources outside of restrictions.				
4. Members/Officers have performed their duties with integrity, honesty, impartiality and objectivity.				
5. Members have listened to the advice of Officers.				
6. Members have upheld the impartiality of Officers.				
7. Members and Officers have not breached each other's trust.				
8. Bullying or harassment has not occurred.				
9. Members have worked to achieve Strategic Objectives.				
10. Appropriate confidences have been maintained by officers and members				
<b>2. Independent Overview</b>				
<b>Monitoring, developing and promoting the Council's approach delivers improvement in this area.</b>				
<b>Do you consider that:-</b>	<b>Yes</b>	<b>No</b>	<b>N/A</b>	<b>Comments</b>
	✓	✓	✓	
1. Each Committee has been able to meet it's terms of reference.				
2. Members have been provided with appropriate guidance on operation of: The Executive Scrutiny Committees Member Structures				
3. New Members are trained with specific guidance on the Council's standards and democratic processes.				
4. The Audit and Standards Committee is impartial.				

## Annual Governance Statement

### Member Self-Assessment Questionnaire 2022/23

#### 3. Leadership

**Encouraging good conduct in the Council is the responsibility of members and of officers.**

Do you consider that:-	Yes	No	N/A	Comments
	✓	✓	✓	
1. The Council's values have been communicated to: Members Officers The Community Partnerships				
2. The Council seeks to meet the needs of its communities.				
3. The Council's approach has built confidence in the Community.				

#### 4. Transparency

**Ensuring transparency in the way the Council carries out its business is a key component of governance.**

Do you consider that:-	Yes	No	N/A	Comments
	✓	✓	✓	
1. The public can access appropriate documents (for example, agendas, minutes, background papers)				
2. Communication between members and or officers is open and constructive				
3. There is an open declaration of member interests and records made of any gift and hospitality received.				
4. Members can challenge Council decisions.				
5. The Council (members and officers) respond positively to constructive external criticism about the Council				
6. The public can access the Council's complaints policy				
7. The Council's complaints system is clear.				
8. The Council take complaints from the public seriously.				
9. There is a clear process to report inappropriate officer or member behaviour.				
10. Inappropriate behaviour is dealt with.				

#### 5. Partnerships

1. To the best of your knowledge are the Council's Partnerships (Liberata, Urbaser & Burnley Leisure) working well?				
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# Officer Governance Self-Assessment Questionnaire 2022-23

In support of the Certificate of Assurance

<b>Officer</b>	
<b>Position</b>	

	Yes	No	N/A	Comment / Detail
	✓	✓	✓	

## General

<p>Have you had to consider making improvements to controls or governance? (please give details)</p> <p>(This could be following a specific incident or following advice from Internal Audit or any other external body reviewing your service)</p>				
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## Business Planning

1. Does your service have plans that are based on the authority's vision and strategic objectives?				
2. Have plans, priorities and targets been developed in consultation with key stakeholders (including the local community, employees and members)? Are these plans, priorities and targets clearly communicated?				
3. Are these plans incorporated into the service and Council budget / Medium Term Financial Strategy?				
4. Is risk management incorporated into the business planning process?				
5. When decisions are made, do decision makers receive sufficient information and analysis of a variety of options (where applicable) including risks associated with these options?				
6. Is there flexibility in the delivery of the service to adapt to changing circumstances?				
7. Do you have a Business Continuity Plan in place? And how often is it reviewed?				
8. Has your Business Continuity Plan been tested, when was it last tested?				

## Performance Management

1. Are there effective procedures in place to periodically monitor the performance of:				
a. The authority as a whole				
b. Your service unit				
c. Individual officers				
2. Are performance information about outcomes, achievements and service satisfaction published and is this conveniently available to access?				
3. Is best value and value for money measured and is this applied to all services and partnerships?				

	Yes	No	N/A	Comment / Detail
	✓	✓	✓	
4. Do you benchmark your service costs and quality against other local authorities or similar organisations?				
5. Is the impact of policies and decisions measured? (Environmental, Community, Equality, etc)				
<b>Project Management</b>				
1. Do officers that manage projects receive formal project management training?				
2. Where monies are received from an external body, (e.g. Government funding or any other grant etc) are Project Managers aware of the additional regulations that must be observed?				
3. Do you assess value for money once major projects have been delivered?				
<b>Budgeting</b>				
1. Are there systems and procedures in place to monitor capital and revenue budgets and is there an appropriate reporting mechanism?				
2. Are responsibilities for budget management and control clear?				
3. Are the finances available to the service structured and sufficient to deliver service objectives?				
4. Does the financial strategy appropriately set out the internal and external challenges to service delivery?				
<b>Expenditure</b>				
1. Are your officers aware of Financial Procedure Rules and Standing Orders?				
2. Is procurement activity undertaken in accordance with Standing Orders / Financial Procedure Rules and completed by officers with the necessary delegated authority?				
3. Are all invoices and claims for reimbursement e.g. travel claims, subsistence, P-Cards, etc. examined to confirm that expenditure is correct, necessary and has been incurred?				
4. Is there sufficient separation of duties? (i.e. a system that would not allow an officer to order & receive goods and also authorise the payment of an invoice.)				
5. Where necessary are all contracts and service level agreements with external suppliers in place?				
6. Does your service unit have a petty cash fund? If yes, are there appropriate controls in place for the use of petty cash?				

	Yes	No	N/A	Comment / Detail
	✓	✓	✓	
7. Does your unit have a P-Card?  If yes, is P-Card use compliant with the P-Card Regulations? (E.g. PIN numbers are not divulged to other officers, Cards held securely. P-card regulations are available from Payments)				
<b>Income</b>				
1. Does your unit receive cash or other fee income (including sundry debts)?				
2. Do you issue a till receipt or a pre-numbered receipt each time income is received?				
3. Is income paid to the cashiers' office/bank as a matter of urgency?				
4. Is income kept in a secure location prior to being paid in?				
5. Does your service undertake a reconciliation of income recorded and income banked?				
<b>Human Resources</b>				
1. Do you comply with the Recruitment and Selection Policy?				
2. Do induction programmes meet individual and organisational needs?  (Including agency personnel)				
3. Is the core brief regularly disseminated to all officers?				
4. Do you ensure that all officers attend the Today and Tomorrow conference (formerly known as staff conferences) and are kept up to date with Council strategic plans and activities?				
5. Are effective communication procedures in place to keep officers informed of new and existing corporate and departmental policies / procedures / issues?				
6. Do officers have the knowledge, skills and tools to complete their tasks and support achievement of your service objectives?				
7. Is training available to develop these skills?				
8. Are PDR's and Job Chat's up to date?				
9. Are the procedures in place for sickness / absence monitoring complied with? Are absence reviews carried out to the required timescales?				

	Yes	No	N/A	Comment / Detail
	✓	✓	✓	
10. Do any of your officers get paid on the basis of recording hours worked on a time sheet? If yes <ul style="list-style-type: none"> <li>Are all time sheets authorised by a supervisor / manager?</li> <li>Does the person approving timesheets have first-hand knowledge that the hours shown have been worked?</li> </ul>				
11. Are payroll reconciliations/sign offs up to date?				
12. Is leave i.e. annual / flexi / special / other leave recorded and monitored? Is this done in the HR21 / TA21 application?				
13. Are amendments to the Time & Attendance system verified before updating employee records?				
<b>Information Technology</b>				
1. Do your officers comply with the council's IT Security Policies?				
2. Have all officers completed the IT Security and Data Protection e-learning package?				
3. Has there been any breach of IT security during the past year?				
4. Are your officers aware of the risk of cybercrime, such as ransomware and viruses?				
5. Do you have effective arrangements in place to ensure compliance with Data Protection requirements for both electronic and paper information?				
<b>Health &amp; Safety</b>				
1. Is health and safety assessed for each of your service units? If yes, how frequently do you complete these?				
2. Does your service have processes in place to ensure compliance with Health & Safety Policy?				
<b>Risk Management</b>				
1. Do you have a process in operation to identify, manage and update risk for your service unit?				
2. Are risk management procedures embedded into the service?				
3. How often do you review service risks and when did you last update your risk register?				
4. What are the top 3 risks in your service and how do you manage these risks?				
5. Do all partnerships and major projects have their own risk registers/logs, which are kept up-to-date?				

	Yes	No	N/A	Comment / Detail
	✓	✓	✓	
6. Before entering any new major partnership do all parties agree a partnership risk register?				
<b>Code of Conduct</b>				
1. Are your officers aware of the Employee Code of Conduct and how do you ensure that they observe the Code?				
2. Are there appropriate governance arrangements for members conduct, such as codes of conduct and procedures to deal with member complaints?				
3. Are there appropriate procedures in place for members and officers to manage outside interests so that they do not conflict with the Councils interests (such as a second job or directorships etc.)?				
4. Is there a gift and hospitality register and is there a specific person identified for its administration?				
5. Have you had to take any action in respect of any declarations of interest or gifts and hospitality?				
6. Has the Head of Service reviewed the gifts and hospitality register (please ensure you evidence this with a signature or comment on the register)?				
7. <b>(Question for Head of Finance and Property Services only)</b> Has the Officer reviewed the Directors gifts and hospitality register?				
8. Are there appropriate ethical standards in place and are these monitored?				
<b>Anti-Fraud, Bribery and Corruption</b>				
1. Are officers aware of and understand the Councils Anti-Fraud, Bribery and Corruption Policy?				
2. Are whistleblowing procedures embedded into the service?				
3. Have you received any referrals under the Whistle Blowing Policy?				
4. What are the top 3 fraud risks your service is exposed to and how do you manage these?				
<b>Legislation</b>				
1. Are officers aware of legal and regulatory requirements that must be observed?				
2. Do officers observe all specific legal and regulatory requirements?				
3. How do you ensure that you and your officers are aware of any new or amended legislation / regulations and that appropriate action is taken to implement these?				
4. Do you complete checks to ensure your officers comply with those regulations?				

	Yes	No	N/A	Comment / Detail
	✓	✓	✓	
<b>Complaints / Community Consultation</b>				
1. Is there an effective complaints procedure in place to deal with problems in service delivery?				
2. Have you received any complaints about service delivery?				
3. Have you received any compliments / awards regarding your service delivery?				
4. Is there commitment to openness (e.g. meetings held in public) and transparency in all dealings including leadership and partnerships (confidentiality only subject to specific needs where proper and appropriate)?				
5. Do you have a policy that identifies the issues that require consultation and engagement including a feedback mechanism?				
<b>Assets</b>				
1. Do you maintain an inventory of assets and stock records (if applicable)? If yes, is this information held in a secure location?				
2. Are these regularly reviewed? If yes, when did you last review?				
3. Are there arrangements in place to ensure that all assets are properly safeguarded against unauthorised use or disposal?				
<b>Partnerships</b>				
1. Do you have partnerships?				
2. What are these?				
3. Do they share a common aim; do all parties understand this aim?				
<b>4. Do partnerships have:</b>				
4.1. A clear statement of principles and objectives?				
4.2. Values that support those of the Council and are these demonstrated by the partners' behaviour?				
4.3. Clarity regarding each partner's role within the partnership?				
4.4. Line management responsibilities for Council officers supporting the partnership?				
4.5. A statement of funding sources in place for joint projects and clear accountability for proper financial administration?				
4.6. A protocol in place for dispute resolution within the partnership?				




	Yes	No	N/A	Comment / Detail
	✓	✓	✓	
5. Is the legal status of the partnership clear?				
6. Do all representatives of the partnership have the necessary authority to bind their respective organisations to the activities and decisions of the partnership?				
7. Has accountability to, and the effectiveness of, relationship with institutional stakeholders been assessed?  (The other organisations/bodies with which a public sector organisation needs to work to improve services and outcomes, or organisations to which it is accountable)				
8. What are the key ways in which your service interacts with the Council's strategic partner?				
9. Has your service experienced any issues with the strategic partner's service delivery?				
9.1. Are these being resolved appropriately?				
<b>General Corporate Governance</b>				
1. Are the roles and responsibilities of senior management (i.e. Heads of Service, Chief Operating Officer and Chief Executive.) clear?				
2. Is there a clear scheme of delegation both to and within the service unit?				
3. Are there effective protocols between members and officers?				
4. Is there appropriate training and guidance available for members to undertake their responsibilities?				
5. Is internal and external (e.g. consultants) professional advice (technical, legal or financial) available and used appropriately?				
6. Is the Scrutiny function effective, with constructive challenges to decisions taken and adds value to the Council's decision-making process?				

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## Internal Audit Progress Report

### REPORT TO AUDIT AND STANDARDS COMMITTEE

 <p><b>Burnley</b> .gov.uk</p>	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 30%;"><b>DATE</b></td> <td><b>26/01/2023</b></td> </tr> <tr> <td><b>PORTFOLIO</b></td> <td><b>Resources and Performance Management</b></td> </tr> <tr> <td><b>REPORT AUTHOR</b></td> <td><b>Ian Evenett</b></td> </tr> <tr> <td><b>TEL NO</b></td> <td><b>01282 425001 Ext 7175</b></td> </tr> <tr> <td><b>EMAIL</b></td> <td><b>ievenett@burnley.gov.uk</b></td> </tr> </table>	<b>DATE</b>	<b>26/01/2023</b>	<b>PORTFOLIO</b>	<b>Resources and Performance Management</b>	<b>REPORT AUTHOR</b>	<b>Ian Evenett</b>	<b>TEL NO</b>	<b>01282 425001 Ext 7175</b>	<b>EMAIL</b>	<b>ievenett@burnley.gov.uk</b>
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<b>TEL NO</b>	<b>01282 425001 Ext 7175</b>										
<b>EMAIL</b>	<b>ievenett@burnley.gov.uk</b>										

#### PURPOSE

1. To inform members of the work undertaken by Internal Audit for the period 1st July to 30<sup>th</sup> September 2022.

#### RECOMMENDATION

2. The Committee considers the progress report and comments on its contents.

#### REASONS FOR RECOMMENDATION

3. Members can monitor the performance of the Internal Audit Section.

#### SUMMARY OF KEY POINTS

**Audit Reports**

4. From 1st July to 30th September 2022 there have been 7 audit reports produced. Details of these audits are given in **Appendix 1**.
5. One additional report was provided to Burnley Leisure and Culture under the service level agreement.

**Performance Statistics**

6. The comparison between actual and planned audits can be seen in **Appendix 2**. Several audits have started, and to date have been completed but due to timing will form part of later quarter statistics to be reported.
7. Performance indicators for Internal Audit are reported in the Finance balanced scorecard. The service currently reports the number of audit reports produced – 10 against an

annual target of 22 and the percentage of high-priority actions from audit action plans implemented which was 100% and has a target of 100%.

### **Revised Internal Audit Plan**

8. The resources in the Internal Audit Plan for 2022/23 as presented to the committee have been revised as reported. A revised plan is presented in **Appendix 3**. The lower risk planned audits have been removed from the plan, where these have not yet commenced.
9. The main change is a reduction in resources from 331 days to 210 days. The two main reasons for this are the appointment of Auditors only occurred in the second quarter and the appointment of a part-time temporary Auditor to cover the leave of a full-time auditor.

### **Other Activity**

10. The newly recruited staff have undergone service and corporate induction.
11. The service provided an Annual Internal Audit Opinion to Burnley Leisure, as per the Service Level Agreement and has carried out follow up reviews on previously completed audits to review completed actions and provided advice and assistance to services.
12. The external peer review of the service has been undertaken in November and December. The draft report is being agreed with the review team and management to agree actions before presentation to this committee.

## **FINANCIAL IMPLICATIONS AND BUDGET PROVISION**

13. None

## **POLICY IMPLICATIONS**

14. None

## **DETAILS OF CONSULTATION**

15. None

## **BACKGROUND PAPERS**

16. None

## **FURTHER INFORMATION**

**PLEASE CONTACT:**

**Ian Evenett (Internal Audit Manager) Ext  
7175**

**ALSO:**

## Appendix 1

### Summary of Audit reports Issued Quarter 2 2022/23

Audit	Service	Audit Purpose	Audit Opinion	Key Actions Agreed	Implementation Detail	Score <sup>i</sup>
Performance Indicators for Council Tax and Non-Domestic Rates 2022  Page 37	Finance and Property	To review and assess the quality of the Council Tax and National Non-Domestic Rates performance indicators reported for 2021/22.	The Council Tax and NNDR performance indicators have been prepared and calculated in line with the agreed contractual terms format and the information routinely reported and presented to the Client Management Team each month. However, Liberata has not maintained the same level of high consistency in reporting accurately when they have presented their updates and annual performance (2021/22) to both Burnley SPB (Strategic Partnership Board) and the Policy & Engagement Service. With RBPI 10 outturn figure having been misreported for both quarter one and for the year-end figure.	Whilst Liberata are reviewing their PI performance, reporting client managers should verify that the contractor is reporting consistent PIs at all organisational levels.	This is in line with what we were expecting. The issue of discrepancies between the figures reported to Policy and those reported to the R&B liaison meeting has been raised with Liberata previously. One of the recommendations that we have made to Liberata management is to circulate the return to their heads of service to amend/sign off prior to submission to Policy.	2
Write-offs Qtr. 1	Finance and Property	To verify that the write offs and write ons follow the Write Off Policy	No Significant issues to report	A slight error in the totals was corrected. That the Write off Policy is reviewed prior to year-end to adjust for inflation.	The error was corrected. Management agreed to review the policy prior to year-end.	N/A (1)

## Appendix 1

### Summary of Audit reports Issued Quarter 2 2022/23

Audit	Service	Audit Purpose	Audit Opinion	Key Actions Agreed	Implementation Detail	Score <sup>i</sup>
Write-offs Qtr. 2	Finance and Property	To verify that the write offs and write ons follow the Write Off Policy	Some of the write-offs were incorrectly coded.	Some of the write-offs were incorrectly coded.	The write-offs were correctly coded. The Write-off Policy was revised to ensure compliance with standing orders scheme of delegation.	N/A (1)
Performance Indicators Debtors	Finance and Property	To review and assess the quality of the Debtors performance indicators reported for 2021/22.	Although RBPI7 was incorrectly calculated there is no material impact. The other indicators are correctly calculated and reported.	The Stats Pack provided should provide background data to support the Debtors and Benefits Performance Indicators.	The Stats Pack provided to the Client managers from the contractor now includes detailed information to support the debtors and benefits performance indicators.	1
Performance Indicators Benefits	Finance and Property	To review and assess the quality of the Benefits performance indicators reported for 2021/22.	The source data used for calculation is based on system generated reports. In the main, the performance indicators are reported in line with the required definition except for RBPI4 which has not been reported to two decimal places. There is an area of concern in relation to the disparity in figures provided in the SPB and Liberata Year End reports compared to the base data.	Whilst Liberata are reviewing their PI performance, reporting client managers should verify that the contractor is reporting consistent PIs at all organisational levels.	Internal Audit have reviewed the reports and provided feedback to the contractor to improve the accuracy at the key points. Internal Audit will revisit the performance indicators for year-end 2022/23 early in 2023/24.	1

## Appendix 1

### Summary of Audit reports Issued Quarter 2 2022/23

Audit	Service	Audit Purpose	Audit Opinion	Key Actions Agreed	Implementation Detail	Score <sup>i</sup>
Fuel Vouchers Investigation report IR01	Policy and Engagement	To investigate an allegation of abuse of the fuel voucher scheme	There was evidence of abuse of the scheme which was in place to assist individuals with fuel payments.	The scheme was revised and works on a different basis to confirm eligibility and access to funds. There was no evidence of involvement of Finance staff in the original scheme development.	The scheme was revised.  A reminder should be issued to remind staff that where new financial schemes are developed advice from Finance should be obtained.	N/A
Annual Governance Statement 2021/22	Corporate	To review and produce a report on the Council Governance arrangements in 2021/22	No Significant issues to report	None	None	Satisfactory

### Audit Score Defined

Score	Opinion	Definition of Opinion
1	Comprehensive Assurance	There is a sound system of controls designed to meet objectives and controls are consistently applied in all the areas reviewed.
2	Reasonable Assurance	There is a good system of controls. However, there are minor weaknesses in the design or consistency of application that may put the achievement of some objectives at risk in the areas reviewed.
3	Limited Assurance	Key controls exist to help achieve system objectives and manage principal risks. However, weaknesses in design or inconsistent application of controls are such that put the achievement of system objectives at risk in the areas reviewed.

## Appendix 1

4	No Assurance	The absence of basic key controls or the inconsistent application of key controls is so severe that the audit area is open to abuse or error.
N/A	Not Applicable	The audit review undertaken did not have as its primary objective an assessment of system, its controls and their effectiveness.

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<sup>i</sup> See Audit Score Defined.



## Appendix 2

### Internal Audit Plan Progress Quarter 2

Audit	Started	Report Issued	Audit Score
<b>Corporate</b>			
Annual Governance Statement	Y	Y	N/A
NFI (National Fraud Initiative)	Y		
Charities			
Debts Write-Off			
Qtr. 1	Y	Y	N/A (1)
Qtr. 2	Y	Y	N/A (1)
Fraud Risk Review	Y		
Strategic Partner Performance Indicators (PI)			
<ul style="list-style-type: none"> <li>Council Tax and Non-Domestic Rates PI's</li> </ul>	Y	Y	2
<ul style="list-style-type: none"> <li>Benefits PI's</li> </ul>	Y	Y	1
<ul style="list-style-type: none"> <li>Sundry Debt PI's</li> </ul>	Y	Y	1
<b>Finance &amp; Property</b>			
Benefits Calculation Check			
NDR			
Covid Grants	Y		
Creditors	Y		
Budget Monitoring			
Bank Reconciliation			
Fees and Charges	Y		
General Ledger			
Building Repairs			
Related Party Interests	Y	Y	N/A
<b>Information Governance</b>			
IT (Information Technology) Continuity Plans			
Website and Digital Services			
MLUCLG Resilience Funding Action Plan	Y		
<b>Housing &amp; Development Control</b>			
Empty Homes Initiatives	Y		
Landlord Selective Licencing			
<b>Legal &amp; Democratic Services</b>			
Elections	Y	Y	1

## **Appendix 2**

### Internal Audit Plan Progress Quarter 2

<b>Audit</b>	<b>Started</b>	<b>Report Issued</b>	<b>Audit Score</b>
<b>Street Scene</b>			
Trade Waste			
Out of Hours Response			
<b>Economy &amp; Growth</b>			
Charter Walk Procurement	Y		
Markets			
<b>External Clients</b>			
Burnley Leisure – Service Level Agreement	Y	Y	N/A
<b>Incident Reports</b>			
Fuel Vouchers	Y	Y	N/A

Appendix 3 Internal Audit Plan 2022/23 – Revised for reduced available days

Revised

Service	Audit Activity	Risk Rank	Audit Days	Total
Corporate	Annual Governance Statement	22	25	
	NFI	20	10	
	Charities	19		
	Debts Write-Off	21	8	
	Fraud Risk Review	18	5	
	Strategic Partner Performance Indicators	5	20	
				68
Finance & Property	Benefits Calculation Check	17		
	NDR	5	15	
	Covid Grant	1	15	
	Budget Monitoring	3	10	
	Bank Reconciliation	8		
	Fees and Charges	10	6	
	General Ledger	9	15	
	Building Repairs	11		
				61
Information Governance	IT Continuity Plans	12		
	Website and Digital Services	4	10	
	MLUCLG Resilience Funding Action Plan	2	15	25
Housing & Development Control	Landlord Selective Licencing	13		
				0
Street Scene	Trade Waste	15		
	Out of Hours Response	7	8	
				8
Economy & Growth	Charter Walk Procurement	13	15	
	Markets	16		
				15

Appendix 3 Internal Audit Plan 2022/23 – Revised for reduced available days

Revised

Service	Audit Activity	Risk Rank	Audit Days	Total
External Clients	Burnley Leisure – Service Level Agreement		10	10
	Frauds and Investigations		8	
	Emergent Risks		4	
	Follow-Up		6	
	Advice and Guidance		5	23
	Total Available Days			210

## Fraud Risk Assessment

### REPORT TO AUDIT AND STANDARDS COMMITTEE



<b>DATE</b>	<b>26/01/2023</b>
<b>PORTFOLIO</b>	<b>Resources and Performance Management</b>
<b>REPORT AUTHOR</b>	<b>Ian Evenett</b>
<b>TEL NO</b>	<b>01282 425011 ext 7175</b>
<b>EMAIL</b>	<b>ievenett@burnley.gov.uk</b>

#### PURPOSE

1. To inform Members of the current fraud trends that affects the public sector.

#### RECOMMENDATION

2. That Committee note the report.

#### REASONS FOR RECOMMENDATION

3. The Council's arrangements for the fight against fraud and corruption are monitored by the Audit and Standards Committee.
4. The Committee is satisfied with management's reaction to the report and the risk of fraud.

#### SUMMARY OF KEY POINTS

5. There are very few updated fraud reports which relate to Local Government. In 2022 there was a major central government counter fraud change. In March 2022 there was an announcement of a new fraud risk assessment standard and in August they announced a new anti-fraud authority for central government. Later in 2022 the Government published the Economic Crime and Corporate Transparency Bill, which has not yet been passed into law, but is targeted to address fraud and money laundering linked into the sanctions imposed in response to the Ukrainian War.
6. CIFAS published a report based on surveys that 1 in 10 people know someone who was falsely claiming Council Tax benefits and 10% did not think that claiming Single Person Discount falsely was illegal. 8% of people considered that it was reasonable. Defrauding the Council is not a victimless crime but puts more pressure on the council's finances.

7. The Office of National Statistics published its National Crime Statistics 2022. It identified that fraud significantly increased during the pandemic. It has now returned to pre-pandemic levels, suggesting that the increase was due to the pandemic rather than change in trends. This was similar to the trend in computer-based offences. An individual is most likely to experience a fraud crime. There were 3.8M fraud offences in the year to June 2022.

### **Council Tax**

8. Council Tax remains the largest area of identified fraud. Council Tax fraud is split into 3 sections;
  - a. Single Person Discount (SPD),
  - b. Council Tax Support (CTS) and
  - c. Other types of council tax fraud (discounts and exemptions).
9. As stated, the CIFAS report highlights that a proportion of the public do not consider this a crime and knows someone who is falsely claiming Council Tax discount. However this does not allow us to assess the number of potential cases in Burnley; it does indicate that about 7,000 Burnley residents who know someone falsely claiming CT benefits. There are about 16,500 SPD accounts in Burnley.
10. The SPD data has been matched to the Election Roll and the matches from this has been referred to the Revenues and Benefits Service to investigate.
11. With regards to Council Tax for long-term empty properties, it is likely that the risk of fraud in this area has increased. There are 222 accounts with a premium charge for being empty.

### **Housing Benefit & Council Tax Support**

12. During 2021/22 the Council paid £22.8m in Housing Benefit (HB) (down £2m from 20/21) and £9.3m in Council Tax Support (CTS) (about the same as 20/21).
13. The Council is no longer responsible for the investigation of HB fraud, but it is responsible for referral of potential fraud cases and the collection of amounts identified as fraud. It is still considered a risk as the financial loss of benefit is borne by councils once the investigation is complete.
14. In 2021/22 there have been 12 referrals made to the Single Fraud Investigation Service (SFIS) and there has been 3 requests for information from the SFIS.
15. £362k of Housing Benefit has been identified as overpaid for 967 accounts. Currently the service is reviewing a selection of cases as part of the Housing Benefit Award Accuracy Initiative (HBAAI) which is a DWP funded exercise to check claim accuracy.

### **Business Rates**

16. As a result of the Covid Business Support grants made over the past couple of years the accuracy of the Business Rates database of occupiers and liable parties is high.
17. The risk of businesses not notifying the council of occupancy changes remains. To mitigate this risk, empty non-domestic properties are examined by area on a rota-based system or on request of the Business Rates Officer. Websites such as National Heritage and the

Charity Commission are checked to ensure that businesses are entitled to the discount. Discretionary relief can only be approved by the Head of Finance and Property Service.

18. Social media accounts and internet searches are used to obtain background information. Neighbouring authorities are liaised with to verify residence or occupancy.
19. In 2021/22 we granted £8.75M in Exemptions and Discounts. In 2023/24 there is a revaluation due for business rates based on valuations on 1 April 2021.

### **Housing Tenancy Fraud**

20. Nationally there has been an increase in the number of tenancy frauds taking place. Tenancy fraud does not directly affect Burnley Borough Council as it no longer has responsibility for social housing. It does impact on the Council as homeless individuals could be accommodated in properties occupied fraudulently. This increases the Council costs in accommodating the homeless.
21. Continued participation with the National Fraud Initiative means we share benefit information with Housing Associations which could assist them in identifying tenancy fraud.
22. The Council is part of the regional Choice Based Letting scheme which has 5 local authorities and 16 registered social landlords. Information is shared with other partners in the scheme.

### **Procurement**

23. Procurement continues to be one of the greatest areas of fraud risk.
24. To mitigate the risk, the Council has Codes of Conduct for Employees and Members, Financial Procedure Rules and Standing Orders for Contracts in place. The purchasing system has built-in approval thresholds and there is a separation of duties between orders and goods receipted. There are tender evaluation models and a facility for an on-line secure tender receipt. Financial checks are undertaken relative to the risk/value i.e. Company House checks and credit rating checks. Progress is underway on updating the Procurement Policy.
25. On certain larger value procurements (and dependent on the procurement route), contractor financial checks are undertaken in terms and a Selection Questionnaire is completed with mandatory and discretionary exclusion criteria looking at issues around bankruptcy, convictions, non-payment of tax, etc.

### **Insurance Fraud**

26. This fraud includes any false insurance claim made against an organisation or an organisation's insurer.
27. Insurance claims are managed by Pendle Borough Council on our behalf. Claims are sent to them, and they liaise with the insurers. The Council's Insurers log all claims on a national database and cross check claimants to see if they have claimed previously. Insurers also check addresses and accident location against other claims. This is a continuous process throughout the life of the claim as other red flag alerts might come up, e.g. dubious medical records etc. Our insurers are part of an anti-fraud network with other insurers.

28. Whilst claims against the Council have been refused based on the Council not being liable for the claim or other reasons, there has been no specific cases of fraud reported in 2021/22.

### **Grant Fraud**

29. This type of fraud relates to the false application or payment of grants or financial support to any person and any type of agency or organisation. Various types of grants awarded by the Council were examined. Controls included procedural notes, separation of duties and obtaining supporting documentation. There are controls in place about bank mandate fraud.

30. In 2021/22 the Covid 19 grant schemes continued and checks were maintained including bank account checks to ensure that these are correct for the applicant.

31. The Energy Rebate scheme required additional bank account checks for thousands of applicants who did not pay via direct debit. The checks were made via a central government portal Spotlight. The cost of these counter fraud checks was funded by central government.

32. The Council continues to operate a wide range of grant schemes in Housing and in Economy and Growth.

33. The UK Shared Prosperity Fund has requested details of how the Council will assess and treat fraud risks in the scheme. This has led the council to require fund applicants to address fraud in their schemes.

### **Recruitment Fraud**

34. Measuring the cost of this type of fraud is quite difficult. The cost can include the impact of reputational damage, on top of the actual costs of further recruitment and investigating the fraud.

35. The council requires that any person involved in the recruitment of employees must firstly attend training. There is a policy and toolkit available on the website to provide guidance.

36. Original documentation is examined, and photocopies are held for both ID and qualifications. Whilst it is not Council policy, some managers check applicants on professional membership websites. An internal (RS3) form is completed by the managers to confirm that ID and qualification checks have been carried out and this is passed to HR.

37. HR Administration team ensures that references, DBS (previous conviction checks which are required for certain jobs) and medical clearances are obtained prior to sending a formal offer.

### **Payroll Fraud**

38. A quarterly audit is carried out. A spreadsheet detailing pay grades of current staff and any staff changes is sent to the Heads of Service for review and authorisation.

39. Notifications are issued automatically if changes are made to employee details on the establishment/payroll system.



40. A monthly audit is carried out by HR staff in Liberata to ensure performance indicators are met.

### **Cyber Risk**

41. Whilst still a significant risk area, the Crime Survey indicates that computer related crime reported in the survey by the public has reduced (by 27%) after the pandemic. In terms of the crimes reported by the public to Action Fraud there has been a 4% increase in reported cyber offences.

42. The council has significantly increased its dependency on information technology to enable working from home, this increases the impact of this risk.

43. Cyber fraud can occur in several ways. The main areas are – Social engineering, Software weaknesses and malware. Social engineering comes by attacking users to get them to provide their log in credentials so that a hacker can gain access to the system. Software is continually attacked, and weaknesses are exposed which can be exploited by hackers to again gain access to systems and data. Malware continues to be a threat, in particular Ransomware; malicious code is introduced onto the computers and this then encrypts data and/or software and a ransom payment is requested to un-encrypt the system.

44. The council must ensure that it keeps up to date with the approaches to prevent this fraud. Staff training and awareness is a valuable tool against social engineering e.g. so that phishing e-mails etc are not opened. In addition, e-mail scanning and website blocking is also employed. There are various policies and procedures in place. The IT Security policies have been reviewed

45. We keep software up to date with patches which are issued to address known software weaknesses. The Council operates firewalls on computers and servers to prevent access which would enable the introduction of malware on to the system. All these controls act to prevent cyber fraud against the council.

46. The Council has been completing a major plan to improve its cyber resilience, specifically to address the risk of ransomware attacks, however this will provide resilience against a wide range of malware attacks.

### **Organised Crime**

47. Organised crime often involves complicated and large-scale fraudulent activity which crosses to more than one area such as insurance claims, business rates, procurement, etc. Cases involving organised crime come from all types of local authorities. It is important that there is co-ordination and information sharing in tackling this type of fraud as well as the various arrangements which reduce the risk of fraudulent activity taking place.

48. The Council cooperates with national agencies such as Action Fraud and the Council's arrangements to prevent money laundering are important in this area. These arrangements include restricting the maximum cash payment it will accept.

### **NAFN (National Anti-Fraud Network)**

49. The Council is a member of NAFN. This is a national organisation which is specific to local authority fraud. They provide data and intelligence services supporting members in protecting the public purse from fraud, abuse and error.

### **National Fraud Initiative (NFI)**

50. This year 2022/23, is a year with a main National Fraud Initiative exercise. We provided data from several of our main systems in October 2022, to enable this to be matched against itself and data from other organisations. This enabled the identification of matches which needed to be risk assessed and the high-risk ones to be investigated to check that this does not represent a fraud against the Council. Matches are received for checking in February.

## **FINANCIAL IMPLICATIONS AND BUDGET PROVISION**

51. None as a direct result of this report, however losses to fraud have a direct impact on the Council's finances.

## **POLICY IMPLICATIONS**

52. The Council has a Corporate Anti-Fraud, Bribery and Corruption Policy and an Internal Audit Strategy.

## **DETAILS OF CONSULTATION**

53. None

## **BACKGROUND PAPERS**

54. CIPFA Fraud and Corruption Tracker 2020 report  
<https://www.cipfa.org/services/cipfa-solutions/fraud-and-corruption/fraud-and-corruption-tracker>

55. The Financial Cost of Fraud 2021  
<https://www.crowe.com/uk/insights/financial-cost-fraud-data-2021>

56. CIFAS 1 in 10 Council Tax  
[1 in 10 Brits know someone defrauding public purse | Cifas](#)

57. ONS Crime Survey  
[Crime in England and Wales - Office for National Statistics \(ons.gov.uk\)](#)

58. Public Sector Fraud Authority  
[Public Sector Fraud Authority - GOV.UK \(www.gov.uk\)](#)

**FURTHER INFORMATION**

**PLEASE CONTACT:**

**Ian Evenett ext 7175**

**ALSO:**

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## CIPFA Audit Committee Guidance Documents

### Report to Audit and Standards Committee



<b>DATE</b>	<b>26/01/2023</b>
<b>PORTFOLIO</b>	<b>Resources and Performance Management</b>
<b>REPORT AUTHOR</b>	<b>Ian Evenett</b>
<b>TEL NO</b>	<b>01282 477175</b>
<b>EMAIL</b>	<b>ievenett@burnley.gov.uk</b>

#### PURPOSE

1. To report the revised The Chartered Institute of Public Finance and Accountancy (CIPFA) Audit Committee Guidance Documents

#### RECOMMENDATION

2. Members consider the guidance and comment any changes for the committee's terms of reference and work programme.
3. Approve the use of Interactive Appendices E and F to assess the performance and effectiveness of the committee in the delivery of the Councils and Committees objectives.

#### REASONS FOR RECOMMENDATION

4. The committee considers the guidance circulated.
5. To ensure that the committee is effective in meeting its aims.

#### SUMMARY OF KEY POINTS

6. CIPFA has issued a suite of updated guidance documents intended to inform and support the work of Audit Committees in organisations across the public sector, including Local Authorities. The guidance is for both at Members of the Audit Committee and those Officers who support the work of the Committee.

7. The relevant documents are:
- CIPFA's Position Statement: Audit Committees in Local Authorities and Police 2022.
  - The Audit Committee Member in a Local Authority 2022 edition.
  - Guiding the Audit Committee - Supplement to the Audit Committee Member guidance 2022 edition.
  - Interactive Appendix E - Self-assessment of good practice.
  - Interactive Appendix F - Evaluating the impact and effectiveness of the Audit Committee.

8. The CIPFA papers have been provided separately to members to avoid copyright infringement.

**CIPFA's Position Statement: Audit Committees in Local Authorities and Police 2022**

9. The statement sets out the purpose, model, core functions and membership of an Audit Committee. The statement represents CIPFA's view on Audit Committee practice and the principles that Local Government bodies in the UK should adopt. It has been prepared in consultation with sector representatives and the Department for Levelling Up, Housing and Communities along with the Home Office support this guidance.
10. CIPFA expects that all Local Government bodies use their best efforts to adopt these principles, aiming for effective Audit Committee arrangements as an aid to meeting Councils' statutory responsibilities for governance and internal control arrangements, financial management, financial reporting and internal audit.

**The Audit Committee Member in a Local Authority 2022 edition**

11. This section of CIPFA's guidance is for Members of an Audit Committee within a Local Authority. Its aim is to support both elected Members and co-opted independent Members to understand the purpose of the Committee, its functions and their responsibilities as Members of the Committee. The guidance also addresses areas such as independence and accountability, and membership and effectiveness of the Committee.

**Guiding the Audit Committee - Supplement to the Audit Committee Member guidance 2022 edition**

12. Guiding the Audit Committee is a supplement to the Member guide. It is for those Officers who support the Committee, helping them to ensure that the Committee acts in accordance with relevant legislation and good practice. Audit Committee Members may also wish to access this supplement.

**Interactive Appendix E - Self-assessment of good practice**

13. This appendix provides a high-level review tool that incorporates the key principles set out in CIPFA's Position Statement.
14. Where an Audit Committee has a high degree of performance against the good practice principles contained in Appendix E, it is an indicator that the Committee is soundly based and has in place a knowledgeable membership. These are principal factors in

developing an effective Audit Committee.

15. CIPFA recommends a regular self-assessment should be used to support the planning of the Audit Committee work programme and training plans. This report echoes and supports this recommendation and proposes that the Committee includes and undertakes a regular good practice self-assessment exercise as part of the effectiveness.

**Interactive Appendix F - Evaluating the impact and effectiveness of the Audit Committee**

16. CIPFA believes, and this report concurs, that an Audit Committee's effectiveness should be judged by the contribution it makes to, and the beneficial impact it has on, the Authority's business.
17. Since the Audit Committee is primarily an advisory body, it can be difficult to identify how it has made a direct and/or measurable difference to the Council's aims and objectives. Evidence of effectiveness will usually be characterised as 'influence', 'persuasion' and 'support'.
18. Appendix F is for use as an improvement tool to support a review of the Audit Committee's effectiveness. It identifies the broad areas where an effective Audit Committee will have impact.
19. This report recommends and proposes that the Committee includes this in its annual review of effectiveness agreed at the July 2022 meeting.

**FINANCIAL IMPLICATIONS AND BUDGET PROVISION**

20. None

**POLICY IMPLICATIONS**

21. None

**FURTHER INFORMATION:**

**PLEASE CONTACT:**

**ALSO:**


**Ian Evenett (Internal Audit Manager) Ext 7175**

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ITEM NO	
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## DRAFT REPORT TO AUDIT AND STANDARDS COMMITTEE

	<b>DATE</b>	<b>16<sup>th</sup> January 2023</b>
	<b>PORTFOLIO</b>	<b>None</b>
	<b>REPORT AUTHOR</b>	<b>Lukman Patel (Chief Operating Officer and Monitoring Officer)</b>
	<b>TEL NO</b>	<b>7140</b>
	<b>EMAIL</b>	<a href="mailto:lpatel@burnley.gov.uk">lpatel@burnley.gov.uk</a>

## CODE OF CONDUCT REVIEW

<b>PURPOSE</b>	
1.	To consider the Borough Council’s Code of Conduct (Existing Code) for Members and associated Complaints Procedure following the publication of the Local Government Ethical Standards report produced by The Committee on Standards in Public Life (“the CSPL”) and the Local Government Association’s (LGA) Model Code of Conduct (LGA’s Model Code).

<b>RECOMMENDATION</b>	
2.	That the Audit and Standards Committee recommend to Full Council to make the proposed changes to the Council’s Existing Code and associated Complaints Procedure as set out in Appendix B in response to the Best Practice recommendations contained in the Local Government Ethical Standards report produced by the CSPL as abstracted in the LGA’s Model Code.
3.	That the Audit and Standards Committee either:
3.1	establish a sub-committee to consider and produce a report as to whether it should adopt the Model Code and report back to this Committee in the first instance with their findings; or
3.2	resolve not to recommend to Full Council to approve the Model Code at this juncture; or
3.3	defer the decision to adopt the Model Code for 12 months due to the perceived ambiguities in the LGA’s Model Code at this moment in time and review the situation when the position is clearer or the LGA produces an updated Code.

<b>REASONS FOR RECOMMENDATION</b>	
4.	<p>The Committee has the responsibility to promote and maintain high standards of conduct of elected Members.</p> <p>It is important to review the Existing Code periodically to ensure that it is benchmarked and reflects best practice. Addressing any shortfalls in the existing arrangements by adopting the best practice recommendations from the CSPL is considered beneficial. It</p>

	<p>also increases transparency and improves trust and confidence in the local democratic process.</p> <p>The Committee may wish to establish a sub-committee whose remit shall be to consider whether it should recommend to Full Council to adopt the LGA's Model Code if it considers this necessary to maintain high standards of conduct of elected Members.</p> <p>The Committee may decide to defer the establishment of a sub-committee to consider the adoption of the Model Code for 12 months due to the perceived ambiguities in the LGA's Model Code at this moment in time and review when the position becomes clearer or the LGA produces an updated Code.</p> <p>The Committee may opt not to recommend to Full Council to approve the Model Code at this juncture as the Existing Code is fit for purpose and the LGA's Model Code does not materially improve or add more rigour to existing arrangements.</p>
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<b>SUMMARY OF KEY POINTS</b>	
<b>5.</b>	<p><b>Background</b></p> <p>Section 27 of the Localism Act 2011 requires local authorities to promote and maintain high standards of conduct by members and co-opted members of the authority.</p> <p>The Council adopted its Existing Code in 2012 and it has been subject to a few minor amendments over the years. The Existing Code and associated complaints procedure are available at:</p> <p><i>Existing Code:</i> <a href="http://modern.gov.co.uk/contents">CONTENTS (modern.gov.co.uk)</a></p> <p><i>Complaints Procedure:</i> <a href="http://modern.gov.co.uk/part-5-1-code-of-conduct-and-complaints-procedure-appendix-review-draft">Part 5.1 Code of Conduct and Complaints Procedure Appendix REVIEW DRAFT (modern.gov.co.uk)</a></p> <p>The Borough Council's Monitoring Officer also oversees the complaints of Parish and Town Councillors. Parish and Town Councils have Codes of Conduct and complaints procedures that are broadly similar to the Borough Council's Existing Code.</p>
<b>6.</b>	<p><b>The Committee on Standards in Public Life Report</b></p> <p>The CSPL advises the Prime Minister on ethical standards across the whole of public life in England and monitors and reports on issues relating to the standards of conduct of all public office holders.</p> <p>The CSPL undertook a review of local government ethical standards.</p> <p>Following the completion of its review the CSPL published a report on 30 January 2019. A copy of the CSPL report is available at:</p> <p><a href="https://www.gov.uk/government/publications/local-government-ethical-standards-report">https://www.gov.uk/government/publications/local-government-ethical-standards-report</a></p> <p>In its report dated 30 January 2019 the CSPL made 24 recommendations to the government to improve ethical standards in local government. Recommendation 1 is abstracted as follows:</p>

*“The Local Government Association should create an updated model code of conduct, in consultation with representative bodies of councillors and officers of all tiers of local government.”*

On 18 March 2022 the Government published its response to the CSPL recommendations.

A copy of the Government response is available at:

<https://www.gov.uk/government/publications/local-government-ethical-standards-government-response-to-the-committee-on-standards-in-public-life-report/government-response-to-the-committee-on-standards-in-public-life-review-of-local-government-ethical-standards#recommendation-1>

The Government responded as follows to CSPL’s Recommendation 1:

*“The Localism Act 2011 states that relevant authorities must promote and maintain high standards of conduct by members and co-opted members. It requires these authorities to adopt a code of conduct for their councillors. Authorities can determine the content of their own code of conduct. However, codes must conform to the 7 ‘Nolan’ principles of standards in public life: selflessness, integrity, objectivity, accountability, openness, honesty, and leadership. Relevant authorities for the purposes of these requirements include local authorities in England, namely county councils, district councils, London borough councils and parish and town councils.*

*It is for individual councils to set their own local code, in line with the Act. The government has previously published a light-touch illustrative code of conduct.*

*The Local Government Association has worked with sector representative bodies to update its own suggested code of conduct, with the intention that this new suggested code could establish a consistent benchmark that local authorities can amend or add to as they see fit to reflect local circumstances and priorities. The Local Government Association published the updated code of conduct in January 2021. However, it remains a local decision on whether this model code is adopted.”*

## 7. **LGA’s Model Code**

Following the publication of the CSPL report, the LGA began drafting a Model Code for consideration for Local Authorities that was published in May 2020. A copy of the Model Code is available at:

[Local Government Association Model Councillor Code of Conduct 2020](#)

The LGA’s Model Code has received a lukewarm response from local authority Monitoring Officers. The inability to introduce firmer sanctions from the Government for a breach of the Code of Conduct has probably heightened the apathy. Requests were sent to neighbouring local authorities and Lancashire County Council canvassing whether they have or propose to adopt the LGA’s Model Code. Responses (where received) have been abstracted at Appendix A.

It has also been observed that the LGA’s Model Code departs from narrower wording in s31 of the Localism Act 2011 (which relates to Disclosable pecuniary interests) and introduces a distinction between things that "directly relate" to an interest and things that "affect" an interest. It has been suggested that this is probably because it assumes the change to the law recommended by the CSPL report to repeal s 31 of the Localism Act

	<p>2011 but until such time as s31 is repealed departing from (narrowing) the wording currently in the Localism Act is not recommended given the criminal sanctions for failure to disclose a DPI.</p> <p>The LGA's Model Code was also drafted before the Government's response to the CSPL report that could explain why some of the provisions contained in the LGA's Model Code. As Members will note the Government did not adopt all of the recommendations contained in the CSPL report.</p> <p>Should Members consider the necessity to consider adopting the LGA's Model Code, it is suggested that a sub-committee is established to consider the LGA's Model Code to ensure that proper consideration is provided to the document before it is recommended to Full Council for approval.</p>
8.	<p><b>Best Practice Recommendations</b></p> <p>The Local Government Ethical Standards report produced by the CSPL also contained 15 Best Practice Recommendations. The Monitoring Officer has reviewed these by reference to the Council's existing processes and procedures and provided a narrative at Appendix B. Where the current processes and procedures are not in line with these recommendations, proposals have been put forward by the Monitoring Officer for consideration by the Committee. It is recommended that the Committee consider these proposals for adoption before they are presented to Full Council.</p>

<b>FINANCIAL IMPLICATIONS AND BUDGET PROVISION</b>	
9.	None arising directly from this report.

<b>POLICY IMPLICATIONS</b>	
10.	Not applicable.

<b>DETAILS OF CONSULTATION</b>	
11.	<p>The following persons and organisations have been consulted on the draft report. Their responses (if provided) are abstracted at Appendix A.</p> <p>Parish and Town Councils in the Borough of Burnley  Blackburn with Darwen Borough Council  Hyndburn Borough Council  Lancashire County Council  Pendle Borough Council  Ribble Valley Borough Council  Rossendale Borough Council  The Borough Council's Two Independent Persons</p>

**Appendix A – Responses to Consultation received.**

Name of organisation/individual	Response received
Briercliffe Parish Council	No response received.
Cliviger Parish Council	No comments
Dunnockshaw & Clowbridge Parish Council	No response received.
Habergham Eaves Parish Council	No comments
Hapton Parish Council	No response received.
Ightenhill Parish Council	No response received.
Padiham Town Council	No comments
Worsthorne with Hurstwood Parish Council	No response received.
Blackburn with Darwen Borough Council	<p>BwD reviewed the LGA code in January 2021 <a href="#">Local Government Ethical Standards Report.pdf (blackburn.gov.uk)</a> and opted to retain our local code but updated it to reflect the Committee on Standards in Public Life best practice recommendations. The Standards Committee were advised with options to adopt the LGA Code in its entirety, adopt the LGA code with amendments or retain the local Code and update it and the complaints procedure to reflect the CSPL recommendations. The Committee recommended to Council to approve the third option. The Committee preferred the local adopted code in terms of its format and wording.</p> <p>Also, please see link to the article: <a href="#">Monitoring officers give lukewarm response to LGA Model Code of Conduct, unlikely to recommend implementation: LLG (localgovernmentlawyer.co.uk)</a></p>

Hyndburn Borough Council	<p>I am currently looking at it for Hyndburn.</p> <p>I understand only around 4 Lancashire LA's have adopted the new code to date.</p> <p>Personally I don't like the LGA code as I think it is unduly complicated, but ultimately it will be members decision.</p>
Lancashire County Council	<p>Lancashire County Council looked at this earlier this year through a member working group, and decided that we would retain our old code and not use any of the LGA Code. The only thing we changed was to increase the threshold for the declaration of Gifts and Hospitality from £25 to £50.</p> <p>There were two main reasons why we didn't amend our Code:</p> <ol style="list-style-type: none"> <li>1. One of the key benefits our members initially saw in the LGA code was that it might help deliver some consistency across councils, which might have been particularly helpful in a two tier area like ours where some councillors will be operating to two slightly different codes. However, when we started to ask around back then, we got a very clear message that many councils were either adopting it in part or adopting it with revisions. Either way, it meant that the "consistency" ambition was never going to be realised</li> <li>2. The LGA code is a perfectly good code and we had no issues with it, but we didn't feel that it said anything that our current code didn't already say. Some things it perhaps said better or more clearly, other things worse, but overall, we didn't feel it made much difference. Given that generally we don't have many issues or complaints under the code anyway, it was not felt that we had a problem that needed fixing, and as the new code did not present immediate and obvious advantages, it felt a bit like it would mean doing some work without getting much out of it.</li> </ol>
Pendle Borough Council	No response received.

Ribble Valley Borough Council	<p>Ribble Valley adopted in April 2021 and we trained all councillors in autumn 2021 using Paul Hoey and then I trained (or invited for training) all Parish Councils so that they could decide if they wanted adopt it or not. Quite a few have a adopted the same code which is helpful.</p> <p>We previously had an extremely limited code and had had some high profile standards issues. I wanted all members to buy into the new code, and the training, which largely they did. The timing was helpful from that perspective. I also drafted new arrangements which are quite prescriptive on how complaints are dealt with, including the investigation and hearings. This was also to head off any future issues around the process. It seems to have had the desired effect. I have found being able to refer members to examples in the LGA guidance which accompanies the code useful too.</p> <p>I did tweak the code slightly to deal with the fact that we are a committee system.</p>
Rossendale Borough Council	<p>We have adopted it with slight tweaks as I didn't feel that the model code went far enough to satisfy the best practice recommendations. I also wanted to keep additional items so that it fit Rossendale and the standards we were wanting to stay with. Members appreciated that this might be subject to change as further consideration to Standards continues.</p> <p>Members have found the code easier to work with and the LGA guidance document that accompanies it is very useful and easy for our members to understand. Please see link for our report etc which may or may not be of use to you. It is item D2.</p> <p><a href="https://www.rossendale.gov.uk/meetings/meeting/1251/council">https://www.rossendale.gov.uk/meetings/meeting/1251/council</a></p>

The Borough Council's Two Independent Persons

Support recommendations.



**Appendix B – Proposals to comply with The Local Government Ethical Standards report Best Practice recommendations.**

Best Practice Recommendation	Current Position	Proposals
<p>Best practice 1: Local authorities should include prohibitions on bullying and harassment in codes of conduct. These should include a definition of bullying and harassment, supplemented with a list of examples of the sort of behaviour covered by such a definition.</p>	<p>This is currently not expressly included in the Council’s Existing Code, but other parts of the Existing Code can be used to regulate such adverse behaviour.</p> <p>Bullying is prohibited but not defined.</p> <p>Harassment is neither defined nor expressly prohibited.</p>	<p>Add the words “harass or victimise” after the word “bully” in Part 1, 3(1)(2)(b) of the Existing Code. Although, victimisation is not specifically referenced, it is considered appropriate to prohibit such conduct as it is often an adverse behaviour linked to bullying and/or harassment that should be condemned and subject to sanctions.</p> <p>It is also proposed that the following definitions and examples of bullying, harassment and victimisation are added into the Council’s Existing Code for clarity.</p> <p><b>“Definitions and Examples:</b></p> <p><i>Bullying is a particular form of harassment and may be characterised as persistent, offensive, intimidating, malicious or insulting behaviour, possibly through an abuse or misuse of position or power where the intention or outcome is to undermine, humiliate, denigrate or injure the recipient. Examples of bullying include: shouting at others in public or in private; personal insults; ignoring or excluding individuals; persistent, excessive, unfair or unjustified criticism; setting impossible deadlines or targets/objectives or making inconsistent demands. This list is not exhaustive.</i></p> <p><i>Harassment is, in general terms, unwanted, unreasonable and offensive conduct affecting the dignity of the individual. It includes verbal, non-verbal and physical conduct that may be related to age, gender, race, disability, sexual orientation, religion and belief, nationality or any personal characteristic of the individual, and may be persistent or an isolated incident. Examples of harassment include: unwanted physical contact, offensive jokes or banter, offensive emails, pictures or graffiti, unwelcome sexual advances, exclusion and victimisation. This list is not exhaustive.</i></p> <p><i>Victimisation is treating someone less favourably than others because the individual has, in good faith, complained (whether formally or otherwise) that someone has been bullying or harassing them or someone else, or supported someone to make a complaint or given evidence in relation to a complaint. Examples include: Isolating someone because the individual has made a complaint or treating them differently. This list is not exhaustive.”</i></p>

		Parish and Town Council's to be asked to consider implementing these changes to their respective Codes if the Borough Council decides to approve the same.
Best practice 2: Councils should include provisions in their code of conduct requiring councillors to comply with any formal standards investigation and prohibiting trivial or malicious allegations by councillors.	<p>Members are not expressly required to comply with any formal standards investigations pursuant to the Existing Code.</p> <p>Following consultation with the Independent Person, if the Monitoring Officer consider an allegation malicious, the complaint can be rejected.</p>	<p>Add in an express requirement in Part 1 of the Existing Code as follows:</p> <p><i>“(8) Members are required to comply with any investigation in relation to complaints against their conduct or relating to other elected members of the authority. Failure to do so is considered a breach of the Code of Conduct.”</i></p> <p>Add the word “trivial” after the word “malicious” at page 2 of the complaints procedure for Members.</p> <p>The Monitoring Officer to write to Clerks of Parish and Town Council's for their Members to consider including this requirement in their respective complaints procedure if this proposal is approved by the Borough Council.</p>
Best practice 3: Principal authorities should review their code of conduct each year and regularly seek, where possible, the views of the public, community organisations and neighbouring authorities.	This is currently not undertaken.	<p>The Monitoring Officer has forwarded a draft copy of this report to the Council's Independent Person, Parish and Town Councils, Lancashire County Council and neighbouring authorities for consideration. Comments received by them are abstracted at Appendix A of this report.</p> <p>An annual review of the Code of Conduct shall be added to the work plan of the Council's Audit and Standards Committee. Before any material review of the Existing Code is proposed, the views of the public, community organisations, Parish and Town Council's and neighbouring authorities should be considered.</p>
Best practice 4: An authority's code should be readily accessible to both councillors and the public, in a prominent position on a council's website and available in council premises.	The Council's Existing Code and associated complaints procedure is available on the Council's website and at a copy is available at the Town Hall.	Not applicable.

<p>Best practice 5: Local authorities should update their gifts and hospitality register at least once per quarter, and publish it in an accessible format, such as CSV.</p>	<p>The Register is currently held in paper format</p>	<p>The Governance Management Information System has the capability for Members of the Borough Council to self-register gifts and hospitality online. This would then immediately be available on the website to view or download on an individual member or whole council basis. Training will be provided to Members of the Borough Council.</p> <p>Parish and Town Councils to be asked to update their gifts and hospitality register at least once per quarter, and publish it in an accessible format, such as CSV.</p>
<p>Best practice 6: Councils should publish a clear and straightforward public interest test against which allegations are filtered.</p>	<p>The test outlined in the current complaints procedure is clear and is considered appropriate.</p>	<p>Not applicable.</p>
<p>Best practice 7: Local authorities should have access to at least two Independent Persons.</p>	<p>The Council currently has two Independent Persons.</p>	<p>Not applicable.</p>
<p>Best practice 8: An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation, and should be given the option to review and comment on allegations which the responsible officer is minded to dismiss as being without merit, vexatious, or trivial.</p>	<p>This process is already incorporated into the Council's complaints procedure for Members.</p>	<p>Not applicable.</p>

<p>Best practice 9: Where a local authority makes a decision on an allegation of misconduct following a formal investigation, a decision notice should be published as soon as possible on its website, including a brief statement of facts, the provisions of the code engaged by the allegations, the view of the Independent Person, the reasoning of the decision-maker, and any sanction applied.</p>	<p>This is established in the Council's existing practices.</p>	<p>Not applicable.</p>
<p>Best practice 10: A local authority should have straightforward and accessible guidance on its website on how to make a complaint under the code of conduct, the process for handling complaints, and estimated timescales for investigations and outcomes.</p>	<p>Details on how to make a complaint and the process for handling complaints are available and accessible on the Council's website. Details of estimated timescales for investigations and outcomes are not included on the website.</p>	<p>The Monitoring Officer to arrange for details of estimated timescales for investigations and outcomes to be included on the Council's website.</p> <p>Parish and Town Councils to be reminded to do the same or re-direct to the Borough Council's website.</p>
<p>Best practice 11: Formal standards complaints about the conduct of a parish councillor towards a clerk should be made</p>	<p>Each Parish and Town Council has its own processes and procedures.</p>	<p>The Monitoring Officer to write out to Parish and Town Clerk's recommending that that their Complaints Procedures are reviewed and updated if necessary.</p>

<p>by the chair or by the parish council, rather than the clerk in all but exceptional circumstances.</p>		
<p>Best practice 12: Monitoring Officers' roles should include providing advice, support and management of investigations and adjudications on alleged breaches to parish councils within the remit of the principal authority. They should be provided with adequate training, corporate support and resources to undertake this work.</p>	<p>The Council's Monitoring Officer regularly attends suitable training courses to undertake his role. The Monitoring Officer is supported by his Deputy and other officers at the Council to support him with investigations.</p>	<p>Not applicable.</p>
<p>Best practice 13: A local authority should have procedures in place to address any conflicts of interest when undertaking a standards investigation. Possible steps should include asking the Monitoring Officer from a different authority to undertake the investigation.</p>	<p>This is currently not included in the Council's Constitution.</p>	<p>Discussions will be had with neighbouring authorities with a view to establishing a reciprocal arrangement.</p>

<p>Best practice 14: Councils should report on separate bodies they have set up or which they own as part of their annual governance statement and give a full picture of their relationship with those bodies. Separate bodies created by local authorities should abide by the Nolan principle of openness and publish their board agendas and minutes and annual reports in an accessible place.</p>	<p>The Council has a joint venture for Weavers Triangle with Barnfield Investment Properties Limited, namely Barnfield and Burnley (Developments) Limited). The Council has a 50 per cent stake in the latter.</p> <p>Details of this joint venture are not currently recorded in the Council's annual governance statement</p> <p>The board agendas and minutes and annual reports are currently not published due to commercial confidentiality. However, before any major development is progressed, a report is presented to the Council's Executive and is generally considered by the Council's Scrutiny Committee. These reports also make their way to Full Council when a budget is required to fund a development.</p>	<p>By adopting this best practice recommendation, it is considered that full and frank discussions with the developer could be lost, and commercial discussions could be prejudiced.</p> <p>All material decisions made by the joint venture that require implementation are presented to the Council's Executive and are generally considered by the Council's Scrutiny Committee. These reports also make their way to Full Council when a budget is required to fund a development.</p> <p>However, an annual progress report to the Council's Scrutiny and Executive Committee is recommended.</p> <p>Details of this joint venture shall be included in the Council's annual governance statement.</p>
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<p>Best practice 15: Senior officers should meet regularly with political group leaders or group whips to discuss standards issues.</p>	<p>This is currently not undertaken.</p>	<p>This item to be added to the Group Leaders Agendas periodically for discussion.</p>
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## REPORT TO AUDIT AND STANDARDS COMMITTEE AND FULL COUNCIL



<b>DATE</b>	17 <sup>th</sup> January 2023
<b>PORTFOLIO</b>	None
<b>REPORT AUTHOR</b>	Lukman Patel (COO and MO)
<b>TEL NO</b>	7140
<b>EMAIL</b>	<a href="mailto:lpatel@burnley.gov.uk">lpatel@burnley.gov.uk</a>

### LOCAL GOVERNMENT (DISQUALIFICATION) ACT 2022 CHANGES TO DISQUALIFICATION CRITERIA FOR COUNCILLORS

#### PURPOSE

- |    |  |
|----|--|
| 1. | To update the Audit and Standards Committee and Full Council of the new grounds for disqualification from being elected to, or being a member of, a local authority that have been introduced by the Local Government (Disqualification) Act 2022 (the "Act"). |
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#### RECOMMENDATION

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|------|---|
| 2    | It is recommended that the:   |
| 2.1  | report be considered and noted by the Audit and Standards Committee and Full Council.   |
| 2.2. | Audit and Standards Committee and Full Council ask the Monitoring Officer to forward a copy of this report to Parish and Town Councils in the Borough for information along with a recommendation that the report is considered and noted at their next Parish and Town Council meetings. |

#### REASONS FOR RECOMMENDATION

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| 3. | It is important that Members are appraised of the changes in the law relating to grounds for disqualification for new and existing Members. |
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#### SUMMARY OF KEY POINTS

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|----|---|
| 4. | <p><b>Background</b></p> <p>Put simply, before 28<sup>th</sup> June 2022 legislation prevented individuals standing, or holding office, as a local authority member if they have, within five years of the day of the election, or since their election, been convicted in the UK, Channel Islands or Isle of Man of any offence and have received a sentence of imprisonment, suspended or not, for a period of not less than three months without the option of a fine. There are also additional prohibitions preventing individuals standing, or holding office, as a local authority member, some of which are summarised below:</p> <ul style="list-style-type: none"> <li>• If individual holds a paid role at the local authority or has done so for the preceding 12 months before the date of the election;</li> <li>• If an individual is disqualified for being elected or for being a member of that authority under Part III of the Representation of the People Act 1983;</li> </ul> |
|----|---|

	<ul style="list-style-type: none"> <li>• If an individual holds a politically restricted post at any local authority.</li> </ul> <p>The old consent to nomination form that is available at Appendix 1 outlines these disqualifications in more detail. It must be noted that this form is now out of date.</p>
5.	<p><b>The Act</b></p> <p>The Act came into force on 28 June 2022. It introduces further additional grounds on which a person is disqualified from being elected to, or holding, certain positions in local government in England, including the position of councillor.</p> <p>The Act updates the disqualification criteria for local authority Members to explicitly disqualify individuals who are subject to relevant notification requirements or orders due to sexual offences such as Sexual Harm Prevention Orders and Sexual Risk Orders from standing for or remaining in office.</p> <p>Recently new offences and sentencing regimes were implemented, meaning that some sexual offences, registration on the Sex Offenders Register and other offences such as anti-social behaviour do not result in a custodial sentence, e.g. they might require a notification or an Order may be made. Therefore, Councillors convicted of offences, which previously would have resulted in disqualification, were able to retain their role if elected or run for election even if recently convicted.</p> <p>The Act updates the disqualification criteria so that sexual offences that had unintentionally fallen out of the scope of the disqualification criteria were brought back into scope. The disqualification introduced by the Act does not operate retrospectively. Therefore, it does not disqualify a person who became subject to any relevant notification requirements or a relevant order on or before 28<sup>th</sup> June 2022.</p> <p>Candidates for election to local government must declare that they are not disqualified from standing using prescribed 'Consent to Nomination' forms at nomination. As Members shall be aware, it is a criminal offence to make a false statement on nomination papers.</p>
6.	<p><b>THE NEW DISQUALIFICATION &amp; IMPLICATIONS</b></p> <p>The Act adds to the existing criteria and introduces a new disqualification, inserted as Section 81A of the Local Government Act 1972. Under that section a person is disqualified from being elected to, or being a member of, a local authority in England if the person is subject to:</p> <p>a) any relevant notification requirements, or b) a relevant order.</p> <p><i>“Relevant notification requirements”</i> means the notification requirements of Part 2 of the Sexual Offences Act 2003 (or equivalent requirements applying in the Channel Islands or the Isle of Man).</p> <p><i>“Relevant order”</i> means:</p> <p>a) a sexual harm prevention order under section 345 of the Sentencing Code; b) a sexual harm prevention order under section 103A of the Sexual Offences Act 2003; c) a sexual offences prevention order under section 104 of that Act; d) a sexual risk order under section 122A of that Act;</p>

	<p>e) a risk of sexual harm order under section 123 of that Act; or  f) certain equivalent legislation to the above applying in the devolved nations, the Channel Islands or the Isle of Man.</p> <p>A person who is subject to any relevant notification requirements referred to above is not to be regarded as disqualified until:</p> <p>a) the expiry of the ordinary period allowed for making an appeal or application against the conviction, finding, caution, order or certification in respect of which the person is subject to the relevant notification requirements, or  b) if such an appeal or application is made, the date on which it is finally disposed of or abandoned or fails because it is not prosecuted.</p> <p>Similarly, a person who is subject to a relevant order referred to above is not to be regarded as disqualified until:</p> <p>a) the expiry of the ordinary period allowed for making an appeal against the relevant order, or  b) if such an appeal is made, the date on which it is finally disposed of or abandoned or fails because it is not prosecuted.</p> <p>Consequential changes to the rules for administering elections have also been including to the prescribed 'Consent to Nomination Form. Candidates are now required to declare when standing that they are not disqualified under the newly inserted Section 81A of the Local Government Act 1972. The new consent to nomination form is available at Appendix 2 which incorporates the new prohibitions/disqualifications introduced by the Act.</p>
7.	<p>Due to data protection prohibitions, it is difficult for the Council to establish which Members are caught by the new guidance which relies on a declaration from candidates (as with previous disqualifications) on their nomination forms confirming that they are not disqualified. However, if Members are concerned that the new or existing legislation may apply to them or another elected Borough, Parish, Town Councillor, or a candidate for such office they should get in touch with the Borough Council's Monitoring Officer for a confidential discussion.</p>

<b>FINANCIAL IMPLICATIONS AND BUDGET PROVISION</b>	
8.	None arising directly from this report.

<b>POLICY IMPLICATIONS</b>	
9.	Not Applicable.

<b>BACKGROUND PAPERS</b>	
10.	<p>The Local Government Association has issued a briefing on the Act which is available via the link below.</p> <p style="text-align: center;"><a href="#">Get in on the Act: The Local Government (Disqualification) Act 2022   Local Government Association</a></p> <p>The Act is available via the link below:</p> <p><a href="https://www.legislation.gov.uk/ukpga/2022/17/enacted">https://www.legislation.gov.uk/ukpga/2022/17/enacted</a></p>



<b>1c – Candidate’s consent to nomination</b>	Office use only			
	<b>Local government elections in England</b>	Date received	Time received	Initials

\*You must declare that you meet at least one of the listed qualification(s) below. **To do this, strike through any that do not apply.** Any qualification(s) that apply must match the information given on your home address form.

Date of election:			
I (name in full):			
hereby consent to my nomination as a candidate for election as councillor for the:		*electoral division/ ward	
of the *county/district/London borough of:			

I declare that on the day of my nomination, I am qualified and that, if there is a poll on the day of election, I will be qualified to be so elected by virtue of being on that day or those days a qualifying Commonwealth citizen, a citizen of the Republic of Ireland or a citizen of a Member State of the European Union, who has attained the age of 18 years and that:

\*a. I am registered as a local government elector for the area of the \*county/district/London borough named above; or

\*b. I have during the whole of the 12 months preceding that day, or those days, occupied as owner or tenant land or other premises in the area named above; or

\*c. my principal or only place of work during those 12 months has been in the \*county/district/London borough named above; or

\*d I have during the whole of those 12 months resided in the \*county/district or London borough named above.

I declare that to the best of my knowledge and belief I am not disqualified for being elected by reason of any disqualification set out in, or decision made under, section 80 of the Local Government Act 1972 or section 34 of the Localism Act 2011 (copies of which are printed overleaf), and I do not hold a politically restricted post, within the meaning of Part 1 of the Local Government and Housing Act 1989, under a local authority, within the meaning of that Part.

Date of birth:	Signature:	Date of consent:

Witness: I confirm the above-mentioned candidate signed the declaration in my presence.

Witness (name in full):	
Witness’s signature:	

**Local Government Act 1972****80. Disqualifications for election and holding office as member of local authority**

(1) Subject to the provisions of section 81 below, a person shall be disqualified for being elected or being a member of a local authority if he –

(a) holds any paid office or employment (other than the office of chairman, vice-chairman, deputy chairman, presiding member or deputy presiding member or, in the case of a local authority which are operating executive arrangements which involve a leader and cabinet executive, the office of executive leader or member of the executive) appointments or elections to which are or may be made or confirmed by the local authority or any committee or sub-committee of the authority or by a joint committee or National Park authority on which the authority are represented or by any person holding any such office or employment; or

(b) is the subject of a bankruptcy restrictions order or an interim bankruptcy restrictions order, or a debt relief restrictions order under Schedule 4ZB of the Insolvency Act 1986; or

(c) [This has been removed and no longer applies]

(d) has within five years before the day of election or since his election been convicted in the United Kingdom, the Channel Islands or the Isle of Man of any offence and has had passed on him a sentence of imprisonment (whether suspended or not) for a period of not less than three months without the option of a fine; or

(e) is disqualified for being elected or for being a member of that authority under Part III of the Representation of the People Act 1983.

(2) Subject to the provisions of section 81 below, a paid officer of a local authority who is employed under the direction of –

(a) a committee or sub-committee of the authority any member of which is appointed on the nomination of some other local authority; or

(b) a joint board, joint authority, economic prosperity board, combined authority, joint waste authority or joint committee on which the authority are represented and any member of which is so appointed;

shall be disqualified for being elected or being a member of that other local authority.

(2AA) A paid member of staff of the Greater London Authority who is employed under the direction of a joint committee the membership of which includes –

(a) one or more persons appointed on the nomination of the Authority acting by the Mayor, and

(b) one or more members of one or more London borough councils appointed to the committee on the nomination of those councils,

shall be disqualified for being elected or being a member of any of those London borough councils.

(2A) Subsection (2) above shall have effect as if the reference to a joint board included a reference to a National Park authority.

(2B) For the purposes of this section a local authority shall be treated as represented on a National Park authority if it is entitled to make any appointment of a local authority member of the National Park authority.

(3) Subsection (1)(a) shall have effect in relation to a teacher in a school maintained by the local authority who does not hold an employment falling within that provision as it has effect in relation to a teacher in such a school who holds such an employment.

(5) For the purposes of subsection (1)(d) above, the ordinary date on which the period allowed for making an appeal or application with respect to the conviction expires or, if such an appeal or application is made, the date on which the appeal or application is finally disposed of or

abandoned or fails by reason of the non-prosecution thereof shall be deemed to be the date of the conviction.

**Candidate's consent to nomination**

**Local government election in England**

**81. Exception to provisions of section 80**

(4) Section 80(2) and (3) above shall not operate so to disqualify –

- (a) any person by reason of his being a teacher, or otherwise employed, in a school or other educational institution maintained or assisted by a county council for being a member of a district council by reason that the district council nominates members of the education committee of the county council

**Localism Act 2011**

*Section 34(4) describes how a person may be disqualified from standing in local government elections under this section. The remaining provisions of section 34 do not directly affect a person's entitlement to stand for election.*

**34 Offences**

(1) A person commits an offence if, without reasonable excuse, the person—

- (a) fails to comply with an obligation imposed on the person by section 30(1) or 31(2), (3) or (7),
- (b) participates in any discussion or vote in contravention of section 31(4), or
- (c) takes any steps in contravention of section 31(8).

(2) A person commits an offence if under section 30(1) or 31(2), (3) or (7) the person provides information that is false or misleading and the person—

- (a) knows that the information is false or misleading, or
- (b) is reckless as to whether the information is true and not misleading.

(3) A person who is guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(4) A court dealing with a person for an offence under this section may (in addition to any other power exercisable in the person's case) by order disqualify the person, for a period not exceeding five years, for being or becoming (by election or otherwise) a member or co-opted member of the relevant authority in question or any other relevant authority.

(5) A prosecution for an offence under this section is not to be instituted except by or on behalf of the Director of Public Prosecutions.

(6) Proceedings for an offence under this section may be brought within a period of 12 months beginning with the date on which evidence sufficient in the opinion of the prosecutor to warrant the proceedings came to the prosecutor's knowledge.

(7) But no such proceedings may be brought more than three years—

- (a) after the commission of the offence, or
- (b) in the case of a continuous contravention, after the last date on which the offence was committed.

(8) A certificate signed by the prosecutor and stating the date on which such evidence came to the prosecutor's knowledge is conclusive evidence of that fact; and a certificate to that

effect and purporting to be so signed is to be treated as being so signed unless the contrary is proved.

<b>Candidate's consent to nomination</b>	<b>Local government election in England</b>
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(9) The Local Government Act 1972 is amended as follows.

(10) In section 86(1)(b) (authority to declare vacancy where member becomes disqualified otherwise than in certain cases) after " 2000 " insert " or section 34 of the Localism Act 2011 " .

(11) In section 87(1)(ee) (date of casual vacancies)—

(a) after "2000" insert " or section 34 of the Localism Act 2011 or ", and

(b) after "decision" insert " or order " .

(12) The Greater London Authority Act 1999 is amended as follows.

(13) In each of sections 7(b) and 14(b) (Authority to declare vacancy where Assembly member or Mayor becomes disqualified otherwise than in certain cases) after sub-paragraph (i) insert—

"(ia) under section 34 of the Localism Act 2011,".

(14) In section 9(1)(f) (date of casual vacancies)—

(a) before "or by virtue of" insert " or section 34 of the Localism Act 2011 ", and

(b) after "that Act" insert " of 1998 or that section " .



<b>1c – Candidate’s consent to nomination</b>	Office use only			
<b>Local government elections in England</b>	Date received	Time received	Initials	No

\*You must declare that you meet at least one of the listed qualification(s) below and may declare more than one qualification if applicable. **To do this, strike through any that do not apply.** Any qualification(s) that apply must match the information given on your home address form.

Date of election:			
I (name in full):			
hereby consent to my nomination as a candidate for election as councillor for the:		*electoral division/ward	
of the *county/district/London borough of:			
<p>I declare that on the day of my nomination, I am qualified and that, if there is a poll on the day of election, I will be qualified to be so elected by virtue of being on that day or those days a qualifying Commonwealth citizen, a citizen of the Republic of Ireland or a citizen of a Member State of the European Union, who has attained the age of 18 years and that:</p>			
<p>*a. I am registered as a local government elector for the area of the *county/district/London borough named above; or</p>			
<p>*b. I have during the whole of the 12 months preceding that day, or those days, occupied as owner or tenant land or other premises in the area named above; or</p>			
<p>*c. my principal or only place of work during those 12 months has been in the *county/district/London borough named above; or</p>			
<p>*d I have during the whole of those 12 months resided in the *county/district or London borough named above.</p>			
<p>I declare that to the best of my knowledge and belief I am not disqualified for being elected by reason of any disqualification set out in, or decision made under, sections 80 or 81A of the Local Government Act 1972 or section 34 of the Localism Act 2011 (copies of which are printed overleaf), and I do not hold a politically restricted post, within the meaning of Part 1 of the Local Government and Housing Act 1989, under a local authority, within the meaning of that Part.</p> <p><b>Note 1:</b> A candidate who is qualified by more than one qualification may complete any of those which may apply.</p> <p><b>Note 2:</b> Disqualifications set out under s.81A of the Local Government Act 1972 only apply to a person who is subject to any relevant notification requirements, or a relevant order, made on or after 28 June 2022.</p>			
Date of birth:	Signature:	Date of consent:	
<p>Witness: I confirm the above-mentioned candidate signed the declaration in my presence.</p>			
Witness (name in full):			
Witness's signature:			

## Local Government Act 1972

## 80. Disqualifications for election and holding office as member of local authority

(1) Subject to the provisions of section 81 below, a person shall be disqualified for being elected or being a member of a local authority if he –

(a) holds any paid office or employment (other than the office of chairman, vice-chairman, deputy chairman, presiding member or deputy presiding member or, in the case of a local authority which are operating executive arrangements which involve a leader and cabinet executive, the office of executive leader or member of the executive) appointments or elections to which are or may be made or confirmed by the local authority or any committee or sub-committee of the authority or by a joint committee or National Park authority on which the authority are represented or by any person holding any such office or employment; or

(b) is the subject of a bankruptcy restrictions order or an interim bankruptcy restrictions order, or a debt relief restrictions order under Schedule 4ZB of the Insolvency Act 1986; or

(c) [This has been removed and no longer applies]

(d) has within five years before the day of election or since his election been convicted in the United Kingdom, the Channel Islands or the Isle of Man of any offence and has had passed on him a sentence of imprisonment (whether suspended or not) for a period of not less than three months without the option of a fine; or

(e) is disqualified for being elected or for being a member of that authority under Part III of the Representation of the People Act 1983.

(2) Subject to the provisions of section 81 below, a paid officer of a local authority who is employed under the direction of –

(a) a committee or sub-committee of the authority any member of which is appointed on the nomination of some other local authority; or

(b) a joint board, joint authority, economic prosperity board, combined authority, joint waste authority or joint committee on which the authority are represented and any member of which is so appointed;

shall be disqualified for being elected or being a member of that other local authority.

(2AA) A paid member of staff of the Greater London Authority who is employed under the direction of a joint committee the membership of which includes –

(a) one or more persons appointed on the nomination of the Authority acting by the Mayor, and

(b) one or more members of one or more London borough councils appointed to the committee on the nomination of those councils,

shall be disqualified for being elected or being a member of any of those London borough councils.

(2A) Subsection (2) above shall have effect as if the reference to a joint board included a reference to a National Park authority.

(2B) For the purposes of this section a local authority shall be treated as represented on a National Park authority if it is entitled to make any appointment of a local authority member of the National Park authority.

(3) Subsection (1)(a) shall have effect in relation to a teacher in a school maintained by the local authority who does not hold an employment falling within that provision as it has effect in relation to a teacher in such a school who holds such an employment.

(5) For the purposes of subsection (1)(d) above, the ordinary date on which the period allowed for making an appeal or application with respect to the conviction expires or, if such an appeal or application is made, the date on which the appeal or application is finally disposed of or abandoned or fails by reason of the non-prosecution thereof shall be deemed to be the date of the conviction.

**81. Exception to provisions of section 80**

(4) Section 80(2) and (3) above shall not operate so to disqualify –

- (a) any person by reason of his being a teacher, or otherwise employed, in a school or other educational institution maintained or assisted by a county council for being a member of a district council by reason that the district council nominates members of the education committee of the county council

**81A. Disqualification relating to sexual offences etc**

(1) A person is disqualified for being elected or being a member of a local authority in England if the person is subject to—

- (a) any relevant notification requirements, or  
(b) a relevant order.

(2) In this section "relevant notification requirements" means—

- (a) the notification requirements of Part 2 of the Sexual Offences Act 2003;  
(b) the notification requirements of Part 2 of the Sex Offenders (Jersey) Law 2010;  
(c) the notification requirements of Part 2 of the Criminal Justice (Sex Offenders and Miscellaneous Provisions) (Bailiwick of Guernsey) Law 2013;  
(d) the notification requirements of Schedule 1 to the Criminal Justice Act 2001 (an Act of Tynwald: c. 4).

(3) In this section "relevant order" means—

- (a) a sexual harm prevention order under section 345 of the Sentencing Code;  
(b) a sexual harm prevention order under section 103A of the Sexual Offences Act 2003;  
(c) a sexual offences prevention order under section 104 of that Act;  
(d) a sexual risk order under section 122A of that Act;  
(e) a risk of sexual harm order under section 123 of that Act;  
(f) a risk of sexual harm order under section 2 of the Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005;  
(g) a sexual risk order under section 27 of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016;  
(h) a restraining order under Article 10 of the Sex Offenders (Jersey) Law 2010;  
(i) a child protection order under Article 11 of that Law;  
(j) a sexual offences prevention order under section 18 of the Criminal Justice (Sex Offenders and Miscellaneous Provisions) (Bailiwick of Guernsey) Law 2013;  
(k) a risk of sexual harm order under section 22 of that Law;  
(l) a sexual offences prevention order under section 1 of the Sex Offenders Act 2006 (an Act of Tynwald: c. 20);  
(m) a risk of sexual harm order under section 5 of that Act.

(4) For the purposes of subsection (1)(a), a person who is subject to any relevant notification requirements is not to be regarded as disqualified until—

- (a) the expiry of the ordinary period allowed for making an appeal or application against the conviction, finding, caution, order or certification in respect of which the person is subject to the relevant notification requirements, or
  - (b) if such an appeal or application is made, the date on which it is finally disposed of or abandoned or fails because it is not prosecuted.
- (5) For the purposes of subsection (1)(b), a person who is subject to a relevant order is not to be regarded as disqualified until—
- (a) the expiry of the ordinary period allowed for making an appeal against the relevant order, or
  - (b) if such an appeal is made, the date on which it is finally disposed of or abandoned or fails because it is not prosecuted.

### **Localism Act 2011**

*Section 34(4) describes how a person may be disqualified from standing in local government elections under this section. The remaining provisions of section 34 do not directly affect a person's entitlement to stand for election.*

### **34 Offences**

- (1) A person commits an offence if, without reasonable excuse, the person—
- (a) fails to comply with an obligation imposed on the person by section 30(1) or 31(2), (3) or (7),
  - (b) participates in any discussion or vote in contravention of section 31(4), or
  - (c) takes any steps in contravention of section 31(8).
- (2) A person commits an offence if under section 30(1) or 31(2), (3) or (7) the person provides information that is false or misleading and the person—
- (a) knows that the information is false or misleading, or
  - (b) is reckless as to whether the information is true and not misleading.
- (3) A person who is guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (4) A court dealing with a person for an offence under this section may (in addition to any other power exercisable in the person's case) by order disqualify the person, for a period not exceeding five years, for being or becoming (by election or otherwise) a member or co-opted member of the relevant authority in question or any other relevant authority.
- (5) A prosecution for an offence under this section is not to be instituted except by or on behalf of the Director of Public Prosecutions.
- (6) Proceedings for an offence under this section may be brought within a period of 12 months beginning with the date on which evidence sufficient in the opinion of the prosecutor to warrant the proceedings came to the prosecutor's knowledge.
- (7) But no such proceedings may be brought more than three years—
- (a) after the commission of the offence, or
  - (b) in the case of a continuous contravention, after the last date on which the offence was committed.

(8) A certificate signed by the prosecutor and stating the date on which such evidence came to the prosecutor's knowledge is conclusive evidence of that fact; and a certificate to that effect and purporting to be so signed is to be treated as being so signed unless the contrary is proved.

(9) The Local Government Act 1972 is amended as follows.

(10) In section 86(1)(b) (authority to declare vacancy where member becomes disqualified otherwise than in certain cases) after " 2000 " insert " or section 34 of the Localism Act 2011 "

(11) In section 87(1)(ee) (date of casual vacancies)—

(a) after "2000" insert " or section 34 of the Localism Act 2011 or ", and

(b) after "decision" insert " or order ".

(12) The Greater London Authority Act 1999 is amended as follows.

(13) In each of sections 7(b) and 14(b) (Authority to declare vacancy where Assembly member or Mayor becomes disqualified otherwise than in certain cases) after sub-paragraph (i) insert—

"(ia) under section 34 of the Localism Act 2011,".

(14) In section 9(1)(f) (date of casual vacancies)—

(a) before "or by virtue of" insert " or section 34 of the Localism Act 2011 ", and

(b) after "that Act" insert " of 1998 or that section ".

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## REPORT TO AUDIT AND STANDARDS COMMITTEE



<b>DATE</b>	<b>16<sup>th</sup> January 2023</b>
<b>PORTFOLIO</b>	<b>Resources and Performance Management</b>
<b>REPORT AUTHOR</b>	<b>Lukman Patel</b>
<b>TEL NO</b>	<b>7140</b>
<b>EMAIL</b>	<a href="mailto:lpatel@burnley.gov.uk">lpatel@burnley.gov.uk</a>

## Member Complaints Statistics 2022/23 Municipal Year – Interim Report

### PURPOSE

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| 1. | To provide an interim update to the Council’s Audit and Standards Committee regarding complaints made about the conduct of Members during the 2022/23 Municipal Year. |
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### RECOMMENDATION

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| 2. | It is recommended that the Audit and Standards Committee note the report. |
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### REASONS FOR RECOMMENDATION

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| 3. | It is important that the Committee is regularly appraised of the complaints made against elected Members of Burnley Borough Council as it has the responsibility to promote and maintain high standards of conduct of elected Members. It is also important for the Committee to be appraised of the conduct of Parish and Town Council Members as the Monitoring Officer of the Borough Council is also responsible for overseeing their conduct. |
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### SUMMARY OF KEY POINTS

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| 4. | Complaints regarding the conduct of Members of Burnley Borough Council as well as the Parish and Town Councils in the Borough of Burnley are submitted to and considered by the Borough Council’s Monitoring Officer. Following consultation with the Independent Person, the Monitoring Officer decides whether the complaint should be investigated, dealt with informally or rejected.  |
| 5. | So far, during this municipal year, the council’s Monitoring Officer has received thirteen complaints regarding the conduct of Members of the Borough Council and Parish Members. No complaints have been received regarding Members of the Town Council during this Municipal Year.   |
| 6. | <p>A summary of the actions taken by the Monitoring Officer in relation to those complaints is set out below:</p> <ul style="list-style-type: none"> <li>• 5 complaints were received regarding Parish Councillors of Briercliffe Parish Council that were resolved informally by the Monitoring Officer following consultation with the Independent Person. 1 of the complaints was referred to mediation as this was considered the most appropriate response by the Monitoring Officer following consultation with the Independent Person.</li> </ul> |

	<ul style="list-style-type: none"> <li>• 1 complaint was received regarding a Borough Councillor that was resolved informally.</li> <li>• 1 complaint was received regarding a Borough Councillor which proceeded to investigation but was withdrawn by the complainant before the investigation was concluded.</li> <li>• 1 complaint was rejected against an elected Member of the Borough Council by the Monitoring Officer following consultation with the Independent Person in relation to the conduct of an elected Member as it was clear that the elected Member was not acting in an official capacity when the alleged conduct occurred.</li> <li>• 1 complaint was rejected against an elected Member of the Borough Council by the Monitoring Officer following consultation with the Independent Person as there wasn't a reasonable belief that an investigation was necessary following the Complaint Initial Assessment.</li> <li>• 1 complaint was received regarding the conduct of a Borough Councillor which is currently being investigated.</li> <li>• 1 complaint of pre-determination was received regarding a Borough Councillor which was rejected after consultation with the Independent Person as the matter had not been determined by the Development Control Committee and therefore there was no breach at the time the complaint was received.</li> <li>• 1 complaint has been received regarding a Borough Councillor but it cannot be looked into further as insufficient details have been provided. The MO has written to the complainant requesting further details.</li> <li>• Complaints have been received regarding several Members of a Parish Council in relation to an incident that took place last year. The MO has written to the Parish Clerk to consider next steps.</li> </ul>
7.	By contrast 6 complaints were received regarding the conduct of Borough Councillors in 2021/22. No complaints were received regarding Parish and Town Councillors.

<b>FINANCIAL IMPLICATIONS AND BUDGET PROVISION</b>	
8.	None arising directly from this report.

<b>POLICY IMPLICATIONS</b>	
9.	Not applicable.

<b>DETAILS OF CONSULTATION</b>	
10.	Not applicable.



## AUDIT & STANDARDS COMMITTEE

Work Programme 2022/23 – as at 18<sup>th</sup> January 2023

DATE OF MEETING	AREAS TO BE CONSIDERED
6 <sup>th</sup> July 2022	<ul style="list-style-type: none"> <li>• Approval of 2020/21 Statement of Accounts (Audited SoA, Letter of Representation, External Audit Findings and Signed AGS 2020/21)</li> <li>• Internal Audit Opinion 2021/22</li> <li>• CIPFA Audit Committee Position Statement 2022</li> <li>• Standards Complaints Update</li> <li>• Work Programme 2022/23</li> </ul>
22 <sup>nd</sup> September 2022	<ul style="list-style-type: none"> <li>• External Audit Plan 2021/22 – Grant Thornton</li> <li>• External Audit Annual Report – Grant Thornton</li> <li>• External Audit Progress Report &amp; Sector Update</li> <li>• Internal Audit Progress Report 2022/23 Q1</li> <li>• Strategic Risk Register</li> <li>• Annual Governance Statement 2021/22</li> <li>• Work Programme 2022/23</li> </ul>
16 <sup>th</sup> November 2022	<ul style="list-style-type: none"> <li>• Approval of Audited Statement of Accounts</li> </ul>
26 <sup>th</sup> January 2023	<ul style="list-style-type: none"> <li>• External Audit Progress Report 2021/22</li> <li>• Annual Governance Statement 2022/23 Arrangements</li> <li>• Internal Audit Progress Report 2022/23 Q2</li> <li>• Fraud Risk Assessment 2022/23</li> <li>• CIPFA Audit Committee Guidance</li> <li>• Standards Complaints Update</li> <li>• Local Government (Disqualification) Act 2022 Changes To Disqualification Criteria For Councillors</li> <li>• Review of Code of Conduct for Elected Members</li> <li>• Work Programme 2022/23</li> </ul>
16 <sup>th</sup> March 2023	<ul style="list-style-type: none"> <li>• External Audit Annual Auditor Report 2021/22 (includes VfM)</li> <li>• External Audit Plan 2022/23-Grant Thornton</li> <li>• External Audit Progress Report 2022/23</li> <li>• External Audit Annual Audit Letter</li> <li>• Audit Findings 2021/22 and Annual Statement of Accounts 2021/22</li> <li>• Annual Governance Statement 2021/22</li> <li>• Internal Audit Progress Report 2022/23 Q3</li> <li>• Strategic Risk Register 2022/23</li> <li>• Regulation of Investigatory Powers Act – Annual Return</li> <li>• Terms of Reference of Audit and Standards Committee – Refresh (tbc)</li> <li>• Work Programme 2022/23</li> </ul>

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